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84TH CONGRESS
1ST SESSION

H. R. 694

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1955

Mr. REED of New York introduced the following bill; which was referred to the
Committee on Agriculture

A BILL

To amend the Commodity Credit Corporation Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Commodity Credit Corporation Charter Act, as
4 amended (62 Stat. 1070), is hereby amended by adding at
5 the end thereof the following new section:

6 “SEC. 19. RELEASE OF INNOCENT PURCHASERS OF
7 CONVERTED GOODS.—A buyer in the ordinary course of
8 business of fungible goods heretofore or hereafter sold and
9 physically delivered by a warehouseman who was also in the

1 business of buying and selling such goods shall take or be
 2 deemed to have taken such goods free of any claim, existing
 3 or hereafter arising, by Commodity Credit Corporation, based
 4 on the want of authority in the warehouseman to sell such
 5 goods, provided the buyer purchased such goods for value in
 6 good faith and did not know or have reason to know of any
 7 defect in the warehouseman's authority to sell such goods."

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By Mr. REED of New York

JANUARY 5, 1955

Referred to the Committee on Agriculture

84TH CONGRESS
1ST SESSION

H. R. 1831

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 1955

MR. POAGE introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

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84TH CONGRESS
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To amend the Commodity Credit Corporation
 Charter Act in order to protect innocent
 purchasers of fungible goods converted by
 warehousemen from claims of the Commodity
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By Mr. POAGE

JANUARY 10, 1955

Referred to the Committee on Agriculture

84TH CONGRESS
1ST SESSION

S. 493

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 1955

Mr. CARLSON introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the Commodity Credit Corporation Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
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7 to know of any defect in the warehouseman's authority to
8 sell such goods."

A BILL

To amend the Commodity Credit Corporation Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

By Mr. CARLSON

JANUARY 18, 1955

Read twice and referred to the Committee on
Agriculture and Forestry

84TH CONGRESS
1ST SESSION

S. 546

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 1955

Mr. CAPEHART introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the Commodity Credit Corporation Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
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6 "SEC. 19. RELEASE OF INNOCENT PURCHASERS OF
7 CONVERTED GOODS.—A buyer in the ordinary course of
8 business of fungible goods heretofore or hereafter sold and
9 delivered by a warehouseman who was also in the business

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 3 after arising, by Commodity Credit Corporation, based on
 4 the want of authority in the warehouseman to sell such goods,
 5 provided the buyer purchased such goods for value in good
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84TH CONGRESS
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S. 546

A BILL

To amend the Commodity Credit Corporation
 Charter Act in order to relieve innocent pur-
 chasers of fungible goods converted by ware-
 housemen from claims of the Commodity
 Credit Corporation.

By Mr. CAPEHART

JANUARY 18, 1955

Read twice and referred to the Committee on
 Agriculture and Forestry

S. 624

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1955

Mr. KERR introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Commodity Credit Corporation Charter Act, as
4 amended (62 Stat. 1070), is hereby amended by adding at
5 the end thereof the following new section:

6 “SEC. 19. PROTECTION OF INNOCENT PURCHASERS OF
7 CONVERTED GOODS.—A buyer in the ordinary course of busi-
8 ness of fungible goods heretofore or hereafter sold and physi-
9 cally delivered by a warehouseman who was also in the

1 business of buying and selling such goods shall take or be
2 deemed to have taken such goods free of any claim, exist-
3 ing or hereafter arising, by Commodity Credit Corporation,
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5 sell such goods, provided the buyer purchased such goods
6 for value in good faith and did not know or have reason to
7 know of any defect in the warehouseman's authority to
8 sell such goods."

A BILL

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

By Mr. KERR

JANUARY 21, 1955

Read twice and referred to the Committee on
Agriculture and Forestry

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

March 2, 1955
March 1, 1955
84th-1st, No. 37

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HIGHLIGHTS: Senate committee ordered reported pay raise bill. Senate committee ordered reported tax bill after deleting personal income tax deduction. House Rules Committee cleared bill to repeal ACP tie-in with acreage allotments. House committee ordered reported CCC fungible goods claims bill. House committee ordered reported bill amending and extending salt water research program. Sen. Byrd urged USDA to reject strip mining permit in Cumberland National Forest.

HOUSE

1. SOIL CONSERVATION. The Rules Committee reported a resolution for consideration of H. R. 1573, to repeal Sec. 348 of the Agricultural Adjustment Act of 1938, which makes ACP payments contingent upon compliance with acreage allotments on basic crops (p. 1909).
2. FUNGIBLE GOODS. The Agriculture Committee ordered reported H. R. 1831, to amend the CCC Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from CCC claims (pp. D148-9).
3. HOUSING LOANS. The Rules Committee reported a resolution for consideration of H. J. Res. 202, to increase by \$1.5 billion the mortgage insurance authority of the Federal Housing Administration (p. 1909).
4. SALT-WATER RESEARCH. The Interior and Insular Affairs Committee ordered reported H. R. 2126, to authorize additional funds for the Interior Department for research in the development and utilization of saline waters, to extend the period of this program, etc. (p. D149).
5. CREDIT UNIONS. Rep. Patman inserted several Texas Credit Union articles outlining the growth of credit unions during 1954 (pp. 1913-4).

6. REORGANIZATION. In its report on personnel (H. Doc. 89) the Hoover Commission makes recommendations as follows:

"Recommendation No. 1

"(a) Career administrators, as rapidly as possible, should be relieved by noncareer executives of responsibility for advocacy or defense of policies and programs and should be kept out of direct participation in political controversies. This recommendation is in no way intended to restrict Congress in obtaining information from any employee of the Government.

"(b) Additional competent noncareer executives should be worked into management organization at the departmental level to help carry the workload, assist the secretaries and assistant secretaries in improving their control over and grasp of departmental business, and take over the political tasks formerly handled by many career administrators. Political appointees should not be placed in the line of command below career administrators. Obviously, such appointments undermine the line of command and make the position of career administrator untenable."

"Recommendation No 2

"We recommend that the President designate the positions which should be in the noncareer category and that he use the following criteria to determine positions which should be in this category:

"(a) All positions filled by Presidential appointment, with or without confirmation by the Senate;²

"(b) All positions having vested in them statutory authority or Executive delegations of authority requiring the incumbents to make final decisions in the establishment of governing policies, programs, objectives and in the enunciation of principles which will control the action of subordinates in the implementation of the foregoing;

"(c) All positions, the duties of which require the incumbents to act publicly in advocating new policies and in justifying or defending the governing policies or the basic principles or philosophy which controls their department or agency policies. Such duties would include direct participation with, or representation of noncareer executives in public debate, evaluative discussions, and justifications of departmental policies, programs, or activities;

"(d) Most positions of a personal and confidential nature, such as personal aids, confidential secretaries, and personal chauffeurs. Noncareer executives may, of course, continue to employ career people in such positions.

"The Commission believes that the use of these recommended criteria together with the concept of concentrating political responsibility at the departmental level would do much to lessen the difficulties involved in this complex problem.

"The Commission also believes that some confusion in the personnel administration could be eliminated by a redefinition of the classes of the positions exempted from the competitive civil service which would clearly distinguish the positions exempted provisionally because of testing difficulties or manpower shortages from those exempted indefinitely because they are political or confidential in nature.

² Except certain positions, discussed later, which the Commission recommends be removed from either Senate confirmation or Presidential appointment or both.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

March 9, 1955
March 8, 1955
84th-1st, No. 42

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Wheat.....1		

HIGHLIGHTS: House committee ordered reported 90% price supports bill, with amendments to establish two-price wheat plan, provide 80-90% dairy price supports, extend brucellosis and school-lunch program. House committee reported CCC fungible goods claims bill. Sen. Ellender introduced bills to continue livestock loan program and to dispose of LU lands. Senate committee reported cotton allotment increase bill.

HOUSE

1. PRICE SUPPORTS. The Agriculture Committee ordered reported, by a vote 23 to 12, H. R. 12, to reestablish 90% price supports for basic commodities. The "Daily Digest" states that amendments were adopted which would make a part of the reported bill the provisions of H. R. 2598, as amended, to establish a two-price plan for wheat; provide for 80-90% price supports on dairy products, extend the brucellosis program, and extend the school-lunch program with appropriations therefor of \$75 million instead of \$50 million (p. B176).

2. CCC CLAIMS. The Agriculture Committee reported without amendment H. R. 1831, to amend the CCC Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from CCC claims (H. Rept. 154)(p. 2141).

3. FORESTRY. The Interior and Insular Affairs Committee reported without amendment H. R. 4046, a bill to abolish the Old Kasaan National Monument, Alaska, and make the lands thereof a part of the Tongass National Forest (H. Rept. 155)(p. 2141).

4. ALASKA WATER RESOURCES. The Interior and Insular Affairs Committee passed over, without prejudice, H. R. 3990, to authorize the Secretary of the Interior to investigate and report to the Congress on projects for the conservation, development, and utilization of the water resources of Alaska (p. D177).
5. PERSONNEL. The Post Office and Civil Service Committee appointed a subcommittee (Rep. Dowdy, chrmn.) on H. R. 3948, to clarify the Federal Employees Uniform Allowance Act relative to enactment date (p. D177).
6. CONGRESSIONAL RECORD AND REPORTS. Rep. Patman urged improvement in the typography of committee reports and that the Congressional Record be printed in a more readable form, stated that "A suggestion that Congress should furnish every person receiving the Congressional Record with a reader's magnifying glass in order to protect his eyes would not be unreasonable," and inserted correspondence and statements on this subject (pp. 2127-8).
7. FORESTRY. Received an Ariz. Legislature memorial relative to timberland in the Coconino and Sitgreaves National Forests in Ariz. (p. 2144).
8. LANDS; MISSOURI BASIN. Received a S. Dak. Legislature memorial relative to the land-acquisition program in the Missouri River Basin (p. 2144).
9. PERSONNEL. Received a Little Rock, Ark., Corps of Engineers petition urging approval of a 10% pay increase for Federal employees (p. 2144).
10. ADJOURNED until Thurs., Mar. 10 (p. 2141).

SENATE

11. COMMODITY EXCHANGE FEES; SURPLUS COMMODITIES; FARM CREDIT. Passed without amendment S. 1051, to amend Sec. 8A (4) of the Commodity Exchange Act so as to authorize increased fees and charges for CEA registrations and renewals thereof and for copies of registration certificates (p. 2106);
S. 942, to repeal Public Law 820, 80th Congress, which provides for a
12. revolving fund for purchase of agricultural commodities and raw materials to be processed in occupied areas and sold (p. 2105); and S. 941, to amend Sec. 13 of the Federal Farm Loan Act so as to authorize the Federal land banks to purchase certain remaining assets of the Federal Farm Mortgage Corporation (p. 2086).
12. COTTON ALLOTMENTS. The Agriculture and Forestry Committee reported with amendment H. R. 3952, to amend the Agricultural Adjustment Act of 1938 so as to provide for an increase in the 1955 national cotton acreage allotments of approximately 258,000 acres (S. Rept. 47)(p. 2073).
13. FOREST LANDS; MINERALS. At the request of Sen. Ellender, S. 687, to authorize the Secretary of Agriculture to protect timber and other surface values in national forests from invalid mining claims, was transferred from the Agriculture and Forestry Committee to the Interior and Insular Affairs Committee (p. 2079).
Received an Ariz. Legislature memorial favoring U. S. purchase of timberland in the Coconino and Sitgreaves national forests, Ariz., from the Aztec Land & Cattle Company (p. 2069).

INNOCENT PURCHASERS OF CONVERTED FUNGIBLE GOODS

MARCH 8, 1955.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. COOLEY, from the Committee on Agriculture, submitted the
following

R E P O R T

[To accompany H. R. 1831]

The Committee on Agriculture, to whom was referred the bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The purpose of this bill is to provide innocent purchasers of grain or other fungible goods with an equitable defense in cases where such goods owned by the Commodity Credit Corporation are sold by warehousemen without authority and the Corporation, unable to recover from the wrongdoer and his surety, takes action to collect from those who purchased the goods unaware that the warehouseman had no right to sell them.

Fungible goods are goods, such as grain, which are normally intermingled in the ordinary processes of commerce so that the identity of specific lots is lost and the obligation to deliver may be fully discharged by delivery of a specified quantity and quality of the commodity. Wheat stored in an elevator or terminal warehouse by several owners, for example, is normally intermingled in the bins so that the identity of the several ownerships is lost and the owners neither expect nor are entitled to receive back the same wheat they put into storage, but only wheat of the same quantity and quality.

EXISTING LAW

Under the existing law in this country, the holders of warehouse receipts issued against fungible goods, such as grain, stored in a warehouse in a common mass are coowners of the goods to the extent necessary to satisfy their receipts. Where a warehouseman wrongfully sells grain belonging to receipt holders, the receipt holder may recover from the purchaser the fair market value of the grain, even though such purchaser was innocent of any knowledge that the warehouseman had no right to sell the grain, had purchased the grain from the warehouseman as a grain dealer in the usual course of business, and could not in fact have determined the ownership of the grain had he tried to do so.

The harshness of this strict application of the rule of "caveat emptor" has long been criticized by courts and lawyers, who have recognized the inequity of forcing an innocent purchaser to pay twice for the goods—first to the wrongdoing seller and again to the rightful owner. As a strict matter of law, the true owner can follow the goods even beyond the first innocent purchaser and recover its value from anyone to whom the innocent purchaser sold the goods, if he cannot satisfy his claim otherwise. For example: The operator of a country feed store orders a carload of grain from a dealer in the usual course of business, accepts delivery, pays for the grain, puts it into bags, and sells it to nearby farmers for feed. Later it develops that the grain belonged to the Commodity Credit Corporation, which had stored it with the grain dealer, and that the dealer had no authority to sell it. The Corporation must look first to the wrongdoer and his surety for payment of the value of the grain but if it cannot recover from them, the law holds the feed store operator liable. Even though he had no way of knowing that the grain he bought in the usual course of business was not the dealer's to sell, the rule of "caveat emptor" is that the purchaser, no matter how innocent of wrongdoing, can obtain no better title than the seller had to convey. If the feed dealer, too, were unable to satisfy the claim of the Corporation, that claim could then be brought even against the farmer who purchased the grain from the feed dealer.

APPLICATION OF THE RULE

Because of the harshness of this rule of law, courts have been sympathetic to equitable defenses against such claims on behalf of innocent purchasers (that action of the rightful owner clothed the warehouseman with "apparent title," that prudent action by the owner could have prevented the fraudulent sale, etc.).

The purpose of this bill to make a specific equitable defense available to the innocent purchasers of converted CCC grain or other fungible goods described in the bill.

As a result of the rather widespread conversion of CCC stored grain which was brought to light a few years ago, a large number of innocent purchasers of that grain are now being sued or are threatened with suit to satisfy those claims. As of January 1, 1955, the Department of Agriculture had referred to the Department of Justice 268 warehouse shortage cases involving grain and other fungible commodities. In some 37 of these cases the amounts which may be recovered from

the warehousemen and their sureties are insufficient to cover the value of the commodities wrongfully sold by the warehousemen. There are 496 known purchasers from these 37 warehousemen and suits in Federal courts have been filed by the Department of Justice against 136 of them. If these purchasers had any part in, or knowledge of, wrongdoing of the warehousemen they should, of course, be held fully liable for their action. But if they were in fact innocent purchasers within the terms of this bill, they should have available to them the equitable defense provided by the bill.

UNIFORM COMMERCIAL CODE

Even before the developments resulting from the CCC grain-conversion cases, representatives of the American bar and bench had recommended for general adoption a law similar to that which this bill would apply only to claims of the Commodity Credit Corporation. In the Uniform Commercial Code (the text edition of which was published in 1951) the American Law Institute and the National Conference of Commissioners on Uniform State Laws, with the approval of the house of delegates of the American Bar Association, recommended for adoption by State legislatures, as part of that Uniform Code, the following provision:

SECTION 7-205. (1) A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated.

There are several points of difference between the bill herewith reported and the recommended statute referred to above (which has been enacted into law in two States and recommended for adoption in several others):

1. The bill applies only to claims of the Commodity Credit Corporation and not to those of any other owner of fungible goods, even though he might be similarly situated.

2. The bill relates only to claims "based on the want of authority in the warehouseman to sell such goods." It will have no effect on the rights or liabilities of the parties with respect to any other type of claim, such as, for example: A claim based on failure of the purchaser to pay for the goods.

3. The provision in the recommended Uniform Commercial Code would relate apparently only to claims arising after its enactment in the State of jurisdiction. The provisions of the bill reported herewith are, on the other hand, intentionally made retroactive so as to afford relief to innocent purchasers who have been made subject to CCC claims by the grain-conversion cases heretofore referred to.

4. The bill requires that the goods be "physically" delivered. This is to make entirely clear (as is apparently implied by the recommended code provision) that the provisions of the bill are to apply only in the case of actual grain purchase and delivery, and not in the case of overissued warehouse receipts.

5. The bill is somewhat more explicit in spelling out a definition of an innocent purchaser.

DETAILS OF THE BILL

A number of interesting points with respect to the bill, which might not be readily apparent to those outside the legal profession, were brought out during the course of the public hearing on the bill. Among them were:

1. The word "also" refers only to the warehouseman. It means that the seller must have been not only a storer of the goods but "also in the business of buying and selling such goods" so that his offer to sell would not be an unusual matter but one "in the ordinary course of business."

2. There are several specific limitations on who is to be considered an innocent purchaser and eligible to take advantage of the defense afforded by the bill. He must have (a) purchased the goods "in the ordinary course of business" (b) from a warehouseman "in the business of buying and selling such goods" and (c) have received "physical" delivery; (d) the purchase must have been "for value" and (e) in "good faith" with (f) no knowledge whatever on the part of the buyer of any lack of authority on the part of the seller to sell the goods and (g) not even suspicious or unusual circumstances which would give him reason to doubt the seller's authority.

3. The meaning of the words "for value" may differ in various jurisdictions according to different State laws but the meaning within each jurisdiction is so well understood and so well established by court decision that there should be no difficulty in its application to individual cases.

4. Although they are not mentioned in the bill, the provisions of this measure will, of course, also protect those who have bought some of the converted grain from an innocent purchaser—such as a farmer who has bought grain from a feed dealer. The defense available to the innocent purchaser is a protection to all who took title to any of the goods through him.

DEPARTMENT REPORT AND OTHER STATEMENTS

Because of the rather technical nature of the subject matter of this bill and the fact that it would set aside, as to specified claims of the Commodity Credit Corporation, certain long established rules of American law, the committee feels it desirable to present in this report a substantial portion of the evidence on which it based its decision to report this bill favorably to the House. Accordingly, there are set out below (1) the letter from the Department of Agriculture recommending enactment of the measure; (2) the discussion of facts and law relating to the subject matter of the bill which accompanied the Department's letter; (3) the relevant and material portions of the statements of the Solicitor of the Department of Agriculture, and the general counsel of the Miller's National Federation.

FEBRUARY 28, 1955.

HON. HAROLD D. COOLEY,

*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR CONGRESSMAN COOLEY: This is in reply to your request for reports on H. R. 694 and H. R. 1831, identical bills to amend the Commodity Credit Cor-

poration Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of Commodity Credit Corporation.

This Department recommends the passage of the proposed legislation.

In connection with the conversions of Commodity Credit Corporation grain and other fungible commodities by warehousemen, which occurred a few years ago, present estimates of the amounts recoverable from the warehousemen and their sureties indicate that persons who purchased such grain are subject to claims by the Corporation approximating \$3½ million. The proposed legislation would relieve from liability to the Corporation innocent purchasers who bought and received physical delivery of fungible goods in the ordinary course of business from warehousemen who were also in the business of buying and selling such goods provided the buyer purchased them for value in good faith and neither knew nor had reason to know that the warehousemen had no right to sell such goods. This legislation would apply also to any like situations occurring in the future. This Department, of course, has taken steps to minimize the possibility of future occurrences of this type.

Under the existing rule of court decisions in this country, an owner of fungible goods, such as grain, wrongfully sold by a warehouseman can recover from a wholly innocent purchaser of such goods. This rule has been criticized for many years by lawyers and judges who have recognized the harshness and inequity in forcing an innocent purchaser who buys fungible goods in good faith in the normal course of business from a dealer in such goods, to pay for them twice—first to the wrongdoing seller and again to the true owner. The critics of the rule have pointed out, also, that it disrupts normal trading in grain and other fungible goods because a prospective purchaser never knows whether a warehouse receipt holder might later assert a claim to the goods he bought. This point has become a major problem for grain dealers and the Government alike in recent years because of the large-scale storage operations of Commodity Credit Corporation since World War II. Never before in the history of grain warehousing in this country has a single owner had such large quantities of grain stored in so many warehouses in all parts of the country for such long periods of time. Although inspections of warehouses are made periodically by Federal and State officials, the only way a purchaser can be certain that he is safe in buying grain from a warehouseman is to measure the stocks of grain in the warehouse and examine his records of outstanding warehouse receipts at the time of each purchase, which obviously is an impossible task.

In recognition of the need for a change in the rule of law in this country, there has been proposed for adoption by the Congress of the United States and the legislatures of the several States a modern, complete code of laws governing commercial transactions, known as the Uniform Commercial Code. This code represents the work of scores of experienced lawyers and judges over a period of several years and has been approved by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the House of delegates of the American Bar Association. The Uniform Commercial Code provides, in subsection (1) of section 7-205, that "A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated." These bills apply the principle of the Uniform Commercial Code to fungible commodities of Commodity Credit Corporation.

Each of the bills which you have submitted to this Department contains a proviso expressly requiring that the buyer must have purchased the goods for value and in good faith, without knowledge of any defect in the warehouseman's authority to sell the goods. The proviso makes clear the class of persons entitled to the benefits of the legislation and appears to place upon any person claiming such benefits the burden of asserting and proving his claim as an affirmative defense. The purchaser is, of course, in a better position than the Government to know the facts with respect to his purchases.

Enclosed is a statement with exhibits, containing a comprehensive discussion of the facts and law with respect to Commodity Credit Corporation claims against purchasers of grain and other fungible commodities.

No increase in the administrative expenses of this Department would result from passage of this legislation.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

DISCUSSION OF FACTS AND LAW WITH RESPECT TO CLAIMS OF COMMODITY CREDIT CORPORATION AGAINST GRAIN PURCHASERS

As of January 1, 1955, the Department of Agriculture has referred to the Department of Justice 268 warehouse shortage cases involving grain and other fungible commodities owned by or pledged to Commodity Credit Corporation.¹ Of these 268 cases, in some 37 cases, involving 496 known purchasers,² the amounts which may be recovered from the warehousemen and their sureties are insufficient to cover the value of the commodities wrongfully sold by warehousemen. Therefore, any further recoveries by the Government must be made from the purchasers. After giving credit for amounts recovered and anticipated recoveries from warehousemen and their sureties, the aggregate potential liability of these purchasers is estimated to be \$3½ million. In 12 of such 37 warehouse cases, a total of 56 separate suits against 136 purchaser-defendants have been filed by the Department of Justice. The suits involve 13 separate judicial districts.

The attached exhibit A contains pertinent information with respect to the 37 warehouse cases in which recoveries from the warehouseman and their sureties will be insufficient to cover the Government's losses and the 4 closed warehouse cases in which the claims against purchasers have been settled.

Exhibit B contains detailed data with respect to the warehouse cases in which suits have been filed against purchasers.

Extensive supplementary investigations and time-consuming calculations are necessary after cases are referred to the Department of Justice to develop the facts necessary to file suits against purchasers. Because of the many sales and replacements of stocks by the warehousemen over extended periods of time and the interest of receipt holders other than Commodity Credit Corporation, these cases usually require the development of complete daily inventory information on all shipments and receipts. Since fungible goods, such as grain, are stored on a commingled basis, no depositor can trace his ownership to any particular goods stored or sold by the warehouseman. Thus, obtaining the evidence necessary to prove claims against numerous purchasers and allocating liability among them is a complex matter.

Under the existing law in this country, the holders of warehouse receipts issued against fungible goods, such as grain, stored in a warehouse in a common mass are coowners of the goods to the extent necessary to satisfy their receipts.³ Where a warehouseman sells grain belonging to receipt holders they may recover from the purchasers the fair market value of the grain, even though such purchasers were innocent of any knowledge that the warehouseman had no right to sell the grain.⁴

If the warehouseman, after selling grain belonging to receipt holders, purchases other grain and stores it in the warehouse, the receipt holders become coowners of the replacement grain, as well as any previously stored grain remaining in

¹ Total recoveries in these 268 cases to date amount to upward of \$6½ million, leaving uncollected almost \$6¾ million, based on book value of the missing commodities. Substantial additional sums will be realized from pending bankruptcy and receivership proceedings. The aggregate of claims made against warehousemen and their sureties exceeds the book-value amount because, wherever the facts warrant, the claims are based on the willful converter's liability for the highest market value between the date of the conversion and a reasonable time after the Corporation received notice of the conversion. All of these 268 cases, however, do not involve civil claims since in many cases the warehouseman has satisfied his civil liability by delivery of commodities or payment for any shortage on load out. The cases where the warehouseman's civil liability was satisfied were referred to the Department of Justice because they involved possible violations of Federal criminal statutes.

² As shown in exhibit A, in 4 additional warehouse cases which are now closed, the claims against purchasers have been settled; in 3 of the 4 cases purchasers contributed to the overall settlement made by the warehouseman and his sureties after the filing of suit against him, and in the remaining case, the purchaser, after demand, paid the amount of the claim made against him by the Department of Justice.

³ *Dowes v. Elkstone*, 3 Fed. 19 (D. Minn., 1880); *Sexton v. Groham*, 4 N. W. 1090 (Iowa, 1880); *Goodman v. Northcutt*, 13 Pac. 485 (Oreg., 1887); *Herrick v. Barnes*, 81 N. W. 526 (Minn., 1900); *Hall v. Pillsbury*, 44 N. W. 673 (Minn., 1890); *Kastner v. Andrews*, 194 N. W. 824 (N. D., 1923); *Corson State Bank v. Grout Grain Co.*, 197 N. W. 146 (N. D., 1924); *Wollock v. State*, 183 N. E. 29 (Ind., 1932); *Kvome v. Farmers' Cooperative Elevator Co.*, 262 N. W. 242 (N. D., 1935).

⁴ Some of the cases illustrating this rule are: *Hall v. Pillsbury*, *supra*; *Corson State Bank v. Grout Grain Co.*, *supra*; *Herrick v. Barnes*, *supra*; *Kastner v. Andrews*, *supra*; *Tobin v. Portland Flouring Mills Co.*, 68 P. 743 (Oreg., 1902); *Torgerson v. Quinn-Shepherdson*, 201 N. W. 615 (Minn., 1925); *Board of Railroad Commissioners v. Hoover Grain Co.*, 248 N. W. 275 (N. D., 1933); *Mitchell v. Munn Warehouse Co.*, 86 P. 2d 174 (Idaho, 1938); *Kimbell Milling v. Greene*, 170 S. W. 2d 191 (Tex., 1943). But cf. *Preston v. Witherspoon*, 9 N. E. 585 (Ind., 1886) (equitable estoppel). With the exception of *Preston v. Witherspoon*, *supra*, the decisions in the foregoing cases are based on the common law rule that a purchaser of property from a converter or thief gets no better title than the vendor and that the true owner may recover from the purchaser, even though he be innocent of wrongdoing, either the property or its fair market value at the time and place of purchase. *Dowes v. National Exchange Bank*, 91 U. S. 618, 637 (1875); *Bolles Wooden-Ware Co. v. United States*, 106 U. S. 432 (1882); *Potter v. United States*, 122 Fed. 49 (C. A. 8, 1903); *Union Novel Stores Co. v. United States*, 202 Fed. 491 (C. A. 5, 1913); *aff.* 240 U. S. 284; *Whitehurst v. United States*, 272 Fed. 46 (C. A. 4, 1921); *First Camden National Bank and Trust Co. v. J. R. Watkins Co.*, 122 F. 2d 826 (C. A. 3, 1941); see also 44 A. L. R. 1326, 80 A. L. R. 613; Restatement, Torts, § 229.

the warehouse, to the extent necessary to satisfy their receipts.⁵ The purchasers of converted grain from the warehouseman are entitled to be credited with any such replacement grain subsequently acquired by the warehouseman⁶ and with the amounts of any recoveries by the receipt holders from the warehouseman and his surety.⁷

Although the holders of unsatisfied warehouse receipts may recover from innocent purchasers of their grain, court decisions indicate that the warehouseman's surety, upon payment of his obligations to the receipt holders under the warehouseman's bond would not be subrogated to their rights against the innocent purchasers.⁸ The surety would appear to have a right of subrogation, however, against a purchaser chargeable with notice of the conversion at the time of his purchase.⁹

Although the law in this country permits receipt holders to recover from purchasers of goods wrongfully sold by a warehouseman without regard to the innocence or guilt of the purchaser, the rule in England, from whom this country inherited its common-law system, is different. Under the ancient English rule of "market overt", which was embodied in section 22 of the English Sale of Goods Act, where goods are sold by a regular dealer in the open market, "the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of any defect or want of title on the part of the seller." While the principle of market overt has never been recognized as a part of the common law adopted by this country, the American rule has been criticized for many years by lawyers and judges who have recognized the harshness and inequity of forcing an innocent purchaser of goods to pay for them twice—first to a wrongdoing seller and secondly to the true owner. The critics of the rule have pointed out, also, that it disrupts the normal trading in grain and other fungible goods because a prospective purchaser never knows whether a warehouse receipt holder might later assert a claim to the goods he bought. This point has become a major problem for grain dealers and the Government alike in recent years because of the large scale storage operations of Commodity Credit Corporation since World War II. Never before in the history of grain warehousing in this country has a single owner of grain had such large quantities stored in so many warehouses in all parts of the country for such long periods of time. Although inspections of warehouses are made periodically by Federal and State officials, the only way a purchaser can be certain that he is safe in buying grain from a warehouseman is to measure the stocks of grain in the warehouse and examine his records of outstanding warehouse receipts at the time of each purchase, which obviously is an impossible task.

In recognition of the need for a change in the rule in this country, the American Law Institute and the National Conference of Commissioners on Uniform State Laws, in the proposed new Uniform Commercial Code, have provided, in subsection (1) of section 7-205, that—

"A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated."¹⁰

The Uniform Commercial Code extends the same principle to sales of goods generally. Subsections (2) and (3) of section 2-403 provide as follows:

"(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him the power to transfer all rights of the entruster to a buyer in the ordinary course of business.

"(3) 'Entrusting' includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or

⁵ *Sexton v. Graham*, 4 N. W. 1090 (Iowa, 1880) *Heuther v. McCaull-Dinsmore Co.*, 204 N. W. 614 (N. D., 1925); *State v. Farmers' Elevator Co.*, 231 N. W. 725 (N. D., 1930).

⁶ *Heuther v. McCaull-Dinsmore Co.*, *supra*; *State v. Farmers' Elevator Co.*, *supra*.

⁷ *Northern Trust Co. v. Consolidated Elevator Co.*, 171 N. W. 265, 4 A. L. R. 510 (Minn., 1919).

⁸ *Northern Trust Co. v. Consolidated Elevator Co.*, *supra*; *American Surety Co. v. Lewis State Bank*, 58 F. 2d 559 (C. A. 5, 1932).

⁹ See *National Surety Co. v. Arosin*, 198 F. 605, 609 (C. A. 8, 1912).

¹⁰ The following comment appears on page 570 in the 1952 text and comments edition of the Uniform Commercial Code:

"1. The typical case covered by subsection (1) is that of the warehouseman-dealer in grain, and the substantive question at issue is whether in case the warehouseman becomes insolvent the receipt holders shall be able to trace and recover grain shipped to and paid for by farmers and other purchasers from the elevator. This was possible under the old acts, although courts were eager to find estoppels to prevent it. The practical difficulty of tracing fungible grain means that the preservation of this theoretical right adds little to the commercial acceptability of negotiable grain receipts, which really circulate on the credit of the warehouseman. Moreover, on default of the warehouseman, the receipt holders at least share in what grain remains, whereas retaking the grain from a good faith cash purchaser reduces him completely to the status of general creditor in a situation where there was very little he could do to guard against the loss."

the possessor's disposition of the goods have been such as to be larcenous under the criminal law."

The Uniform Commercial Code was approved in 1951 by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association.¹¹ It has been enacted into law in the States of Pennsylvania and New Hampshire and is under active study for introduction in a number of other States. The proponents of the code advocate its adoption by all of the States as a complete code covering all commercial transactions, replacing all existing uniform acts governing commercial transactions and making numerous modifications in existing law. They also advocate that it be enacted by Congress to apply to interstate transactions as an early step in obtaining general adoption.¹²

The proposed legislation would not relieve a purchaser from liability to the Government unless he bought the goods "for value in good faith and did not know or have reason to know of any defect in the warehouseman's authority to sell such goods." Moreover, the goods must have been bought "in the ordinary course of business" from a "warehouseman who was also in the business of buying and selling such goods." All rights of the Government against guilty purchasers, as well as warehousemen and their sureties, would be left unimpaired. Any purchaser who knew that the warehouseman had no authority to sell the goods or who bought them under circumstances sufficient to cause an honest and prudent man to make inquiry, would not be relieved from liability by the proposed legislation.

With relatively few exceptions, the evidence developed in the investigations made by this Department does not indicate that the purchasers knew that the warehousemen were improperly selling goods belonging to others. In some instances it appears that the purchasers bought through brokers and did not even know the identity of the seller.

Each of the bills which you have submitted to this Department contains a proviso expressly requiring that the buyer must have purchased the goods for value and in good faith, without knowledge of any defect in the warehouseman's authority to sell the goods. The proviso makes clear the class of persons entitled to the benefits of the legislation and appears to place upon any person claiming such benefits the burden of asserting and proving his claim as an affirmative defense. The purchaser is, of course, in a better position than the Government to know the facts with respect to his purchases.

STATEMENT BY R. L. FARRINGTON, SOLICITOR, UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, I appreciate the invitation to discuss H. R. 1831 (introduced by Mr. Poage) and H. R. 694 (introduced by Mr. Reed).

These two bills are identical. They would relieve from claims of Commodity Credit Corporation persons who bought and received physical delivery of grain or other fungible goods in good faith, and in the ordinary course of business, from a warehouseman who was also in the business of buying and selling such goods.

¹¹ In the foreword to the November 1951 final text edition of the Uniform Commercial Code, Herbert F. Goodrich, chairman of the editorial board and director of the American Law Institute, stated:

"We think this code represents a very important achievement in American law. Karl Llewellyn and Soia Mentschikoff have been the chief reporter and associate reporter, respectively, and they have been aided by many reporters in special subjects. But this code is not the product of the reporters. It has been participated in by scores of lawyers whose practice lies in particular fields in the commercial world. The conclusions reached in the code therefore represent the consensus of a large number of experienced professional people. We think that the changes in the present law herein proposed are in accordance with present day tendencies in growth and that this code is set up to read upon the business transactions of today's commerce, not that of 150 years ago."

¹² In an article in the March 1950 issue of the American Bar Association Journal (36 A. B. A. J. 179, 234), William A. Schnader, of Philadelphia, Pa., a member of the editorial board in charge of drafting and editorial work for the Uniform Commercial Code, wrote as follows:

"While the code has been prepared primarily for introduction into the State legislatures, there has been much discussion of the desirability of having it enacted by Congress to apply to interstate transactions. This could be done with a very few modifications of the text of the State act, although it is universally conceded that article 9—secured commercial transactions—should be omitted from a Federal act. Obviously, should the code be enacted by Congress, that step alone will result in greater uniformity in commercial law in the United States than has ever heretofore been attained; for today a very large part of the Nation's business is interstate. And if Congress enacts the code to govern all interstate commercial transactions, there would be a tremendous incentive for every state to write the code into its statutory law without the slightest delay.

"If complete uniformity of law covering all commercial transactions—interstate as well as intrastate—could be accomplished with reasonable promptness, there would probably be no disagreement that this would constitute one of the greatest achievements in the history of American law."

For the reasons stated hereinafter, the Department favors enactment of the legislation.

The proposed legislation would amend the Commodity Credit Corporation Charter Act by adding a new section as follows:

"A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman who was also in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the warehouseman to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the warehouseman's authority to sell such goods."

I believe it important to emphasize that in order to be free of any claim on account of the transaction, the buyer must have bought and accepted physical delivery of the goods in the ordinary course of business; from a warehouseman who was also in the business of buying and selling such goods; the buyer must have purchased the goods for value and in good faith; and he must not have known or had any reason to know of any defect in the warehouseman's authority to sell the goods.

The purpose of the legislation is to relieve the honest and prudent purchaser from having to pay for the goods twice—first to the irresponsible seller and next to the real owner of the goods. Showing that he bought the goods under circumstances entitling him to the benefits of the legislation would appear to be a matter of affirmative defense. It is to be presumed that the buyer knows the facts with respect to his purchases better than the Government, which was not a party to the transaction.

As I understand it, this legislation only covers the situation I have described. The Government would retain all of its rights against guilty warehousemen and their sureties, against guilty purchasers, and against purchasers who bought the goods under circumstances which would cause an honest and prudent man to make inquiry into the circumstances of the sale.

This legislation would apply only to claims of Commodity Credit Corporation; it would not affect other claims of the Government.

The bills would not change the present law on the rights of holders of over-issued or fictitious warehouse receipts.

The harshness of the rule of law, which the legislation is designed to correct, has been rather generally recognized. A Uniform Commercial Code has been proposed for adoption by the Congress and by the legislatures of several States. The proposed code has been approved by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association. The code contains a proposed provision similar in principle and legal effect to the provision proposed in the bills before this committee. The code has already been adopted in 2 States, has been introduced in 6, and is under study by committees in others.

In England, under what is technically called the "market overt" rule, purchasers of goods in good faith and in the ordinary course of business from regular dealers in open, public, and legally constituted markets, are not liable to persons asserting ownership of the goods. Although we inherited our principles of common law from England, the "market overt" rule historically has not been followed in the courts of this country. Instead, our courts have applied the principle of "caveat emptor"—"let the buyer beware." The rule in this country has been criticized on many occasions by lawyers and judges as being unduly harsh.

In view of the expanded storage operations of Commodity Credit Corporation since World War II, this rule has caused a major problem for grain dealers in this country. The problem is serious because, under the existing rule, purchasers from warehousemen can never be certain they are free from liability unless before each purchase they measure the grain in the elevator and compare the inventory with the outstanding warehouse receipts. Of course, as a practical matter, measuring the grain before each purchase would be virtually impossible.

The Department believes that in the long run passage of the bill will be a stabilizing factor in the marketing of grain. This is because a large number of suits will tend to cause many purchasers to hesitate to buy grain until they know the origin of it. The bill will be of special benefit to the smaller dealers whose net worth is insufficient to enable them to satisfy any large number of claims based upon double liability for the value of the grain they have bought and sold while innocent of the fact that the warehouseman is short in the grain in his elevator and does not have enough assets to satisfy all of his claims.

STATEMENT OF GLENN G. PAXTON, GENERAL COUNSEL, MILLERS' NATIONAL FEDERATION

Mr. Chairman and members of the committee, my name is Glenn G. Paxton, I am a lawyer and a member of the law firm of Campbell, Miller, Carroll & Paxton of Chicago, Ill. I am general counsel for the Millers' National Federation, a trade association representing the flour milling industry of the United States. The federation maintains offices in Chicago, Ill., and Washington, D. C. It has authorized its officers and me to testify in these hearings.

Flour millers necessarily buy large quantities of grain in the open market. Grain is an outstanding item in the category of fungible goods. Commodity Credit Corporation owns or lends money on a major portion of grain stored in the United States. Under present law, if Commodity Credit Corporation has grain in storage or under lien in a warehouse of whatever type and wherever located, and if the warehouseman wrongfully sells such grain, it may recover the grain or the value thereof from the purchaser or from any subsequent purchaser, however innocent.

The subject of this hearing is H. R. 1831, introduced by Representative Poage of Texas. Similar bills have been introduced by Representative Hope of Kansas, a member of this committee, and Representatives Reed and Cunningham. These bills would afford to an innocent purchaser of fungible goods, bought in the ordinary course of business from a warehouseman engaged in the business of buying and selling such goods, an opportunity to defend against claims of Commodity Credit Corporation by sustaining the burden of proof that he purchased the goods for value, in good faith, and that he neither knew nor had reason to know that the warehouseman had no right to sell the goods.

The first point I would like to discuss is the criticism that the bill would nullify certain traditional American legal principles. That it would have that effect in the limited circumstances described in the bill is admitted. It is submitted, however, that all legislation changes existing law and procedures—otherwise there would never be any need for legislation—that any proposed legislation should be considered on its merits, and that if equity and good conscience require that tradition be upset, then upset it must be.

The established American rule that an innocent purchaser of goods can acquire no better title than that of the seller is a harsh and inequitable rule when applied to fungible goods purchased from a dealer in such goods. It is contrary to the English law, although English law is basically the source of our system of jurisprudence. It has been justly criticized by many American courts but nevertheless survives on the basis of precedent. The inequity of this rule is recognized in the Uniform Commercial Code, which has been approved by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association, has been adopted in at least one State, and is under consideration in others. This code would extend to innocent purchasers of fungible goods purchased from a warehouseman engaged in the business of buying and selling such goods an opportunity to defend on the ground of innocence against claims of any holder of a warehouse receipt covering such goods.

The inequity of the American rule is readily apparent. Fungible goods are not identifiable and one who stores such goods with a dealer invests the dealer with apparent title, thus making it possible for him to defraud innocent purchasers. If 1 of 2 innocent persons—the owner and the innocent purchaser—is to suffer, traditional equitable principles would throw the loss on the person who made the loss possible, but in this particular field these equitable principles have been neglected. In these cases it is the owner of the goods who stores them in the warehouse of a dealer, thus giving the dealer the opportunity to accomplish the fraud, who makes it possible for the loss to occur. It will be noted that the situation is not analogous to a case in which a thief steals the property of a person with whom he has had no business dealings. In the latter case the owner has not voluntarily taken any action which creates an opportunity for a loss to occur.

The second point I wish to discuss is the suggestion that this bill would encourage collusion between a defaulting warehouseman and a purchaser. Upon analysis this appears unlikely. Collusion and conspiracy may occur from time to time whether or not this bill is passed, but not as a result of the bill.

The bill has reference only to certain sales of fungible goods of Commodity Credit Corporation to buyers in good faith "who did not know or have reason to know of any defect in the warehouseman's authority to sell." This language is familiar in the law and adequately describes an innocent purchaser, and it is

traditionally accepted as not offering inducement to one who is not an innocent purchaser to conspire with a seller. Such purchaser would still be liable for the value of the goods. The sole purpose of the proposed legislation is to provide an innocent purchaser with the opportunity to defend on the ground of his innocence. The burden of proving such innocence would be on him. The bill would not relieve a purchaser of any criminal penalties for collusion or conspiracy with the defaulting warehouseman. And, of course, the bill would not relieve the defaulting warehouseman of any civil or criminal responsibilities.

The third point upon which I wish to comment is the objection that this bill would deprive Commodity Credit Corporation of remedies that would still be available to other owners of fungible goods. To a certain extent that is true, but upon analysis the objection does not appear to be valid.

In the first place it is fitting that the Federal Government take the lead in effecting a long needed change in the law. It should not be the policy of Government to oppress innocent citizens. The Government has here the opportunity to abandon a harsh rule insofar as its own transactions are concerned. Such action might even encourage the States to follow with similar legislation of general application.

Furthermore, Commodity Credit Corporation has a distinct advantage in this type of situation over other owners of grain, as follows:

1. Under its charter, and under its uniform storage agreements, it has broad powers to inspect, investigate, and otherwise police its warehouseman—powers which are not available to ordinary holders of warehouse receipts.

2. It is subject only to the 6-year statute of limitations provided in its charter, whereas other claimants are subject to the applicable statute of limitations of a particular State, which in some States is as short as 2 years.

3. Enjoying the immunities of the United States, it is not subject to estoppels and equitable defenses which may be raised by innocent purchasers against ordinary claimants.

4. Enjoying the priorities of the United States, it has priority over other claimants with respect to claims against decedents, insolvents, and other debtors.

5. Being an arm of the Government, it is not bound by the unauthorized acts of its agents even though they are invested with apparent authority to act.

6. Finally, the advent of Commodity Credit Corporation as the dominant owner of grain in store, the magnitude of its holdings, and the consequent difficulty of maintaining close supervision over all warehousemen has undoubtedly contributed to many conversions, resulting in an unprecedented number of claims against innocent third persons.

In conclusion, I would like to suggest that the prevailing rule presents practical problems which could seriously affect the national economy. For example, millers purchase grain on the open market whenever needed, at going market prices, often without any way of determining the origin of the grain. Until the Commodity Credit Corporation became the dominant owner and storer of grain most millers never experienced a claim of adverse ownership to grain purchased by them. The fact that numerous claims are now being prosecuted by Commodity is becoming well known. Flour millers as well as other buyers of grain are becoming aware of the dangers. It is not too fanciful to predict that unless this situation is remedied, large users of grain and other purchasers in terminal markets eventually will refuse to purchase from any seller, other than Commodity Credit Corporation, who does not have the highest credit rating or who cannot furnish full coverage by bond. The effect of such a development on the country elevator operator and the farmer and producer is obvious. However, an attorney cannot under present law advise a client of any other safe procedure in buying grain.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

COMMODITY CREDIT CORPORATION CHARTER ACT

* * * * *

SEC. 19. RELEASE OF INNOCENT PURCHASERS OF CONVERTED GOODS.—A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman who was also in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the warehouseman to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the warehouseman's authority to sell such goods.



84TH CONGRESS
1ST SESSION

H. R. 1831

[Report No. 154]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 1955

Mr. POAGE introduced the following bill; which was referred to the Committee on Agriculture

MARCH 8, 1955

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Commodity Credit Corporation Charter Act, as
4 amended (62 Stat. 1070), is hereby amended by adding at
5 the end thereof the following new section:

6 “SEC. 19. RELEASE OF INNOCENT PURCHASERS OF
7 CONVERTED GOODS.—A buyer in the ordinary course of
8 business of fungible goods heretofore or hereafter sold and
9 physically delivered by a warehouseman who was also in the

1 business of buying and selling such goods shall take or be
 2 deemed to have taken such goods free of any claim, existing
 3 or hereafter arising, by Commodity Credit Corporation, based
 4 on the want of authority in the warehouseman to sell such
 5 goods, provided the buyer purchased such goods for value in
 6 good faith and did not know or have reason to know of any
 7 defect in the warehouseman's authority to sell such goods."

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To amend the Commodity Credit Corporation
 Charter Act in order to protect innocent
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By Mr. POAGE

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Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

March 16, 1955
March 15, 1955
84th-1st, No. 46

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HIGHLIGHTS: House passed Treasury-Post Office appropriation bill. House committee reported 2nd supplemental appropriation bill. House discussed CCC fungible goods claims bill. House passed bill to repeal revolving fund for surplus commodities in occupied areas. House committee ordered reported bills to include onions in CEA, reapportion rice acreage allotments, and increase tobacco allotments. Senate passed tax bill after eliminating \$20 tax credit. Rep. Dawson (Ill.) introduced bill to increase per diem allowance.

HOUSE

1. APPROPRIATIONS. Passed without amendment H. R. 4876, the Treasury-Post Office appropriation bill, 1956. The amendment would correct an error in the printing of the bill. (pp. 2491-2505.)

The Appropriations Committee reported without amendment H. R. 4903, the second supplemental appropriation bill, 1955 (H. Rept. 207) (pp. 2470, 2516). See end of Digest for provisions of this bill.

2. COMMODITY EXCHANGE; RICE; TOBACCO. The Agriculture Committee ordered reported H. R. 122, to include onions within the provisions of the Commodity Exchange Act; H. R. 2839, to provide for reapportionment of rice acreage allotments voluntarily surrendered to the county committee; H. R. 4356, to amend the Agricultural Adjustment Act with respect to rice allotment history; H. R. 4756, to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act regarding establishment of State and farm acreage allotments; and H. R. 4757, to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act regarding proof of tobacco disposition reports (p. D202).

3. CCC CLAIMS. Discussed and passed over, at the request of Majority Leader McCormack, H. R. 1831, to amend the CCC Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from CCC claims (pp. 2473-5).
4. SURPLUS COMMODITIES. Passed without amendment S. 942, to repeal Public Law 820, 80th Congress, which provides a revolving fund for the purchase of agricultural commodities and raw materials to be processed in occupied areas and sold (p. 2471). This bill will now be sent to the President.
5. LAND TRANSFER. Passed without amendment H. J. Res. 107, to permit this Department to release reversionary rights in certain property (formerly FHA) for school purposes in Kern County, Calif. (pp. 2470-1).
6. FORESTRY. Passed without amendment H. R. 4046, to abolish the Old Kasaan National Monument, Alaska, and make the lands thereof a part of the Tongass National Forest (p. 2475).
7. MINERALS; RECLAMATION. Passed as reported H. R. 100, to permit the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development; and H. R. 103, to provide for the construction of distribution systems on authorized Federal reclamation projects by irrigation districts and other public agencies (pp. 2471-3).
8. MONOPOLIES. Discussed and passed over, at the request of Rep. Patman, H.R. 3659, to increase criminal penalties under the Sherman Antitrust Act (p. 2472).
The "Daily Digest" states that the Judiciary Committee adopted amendments to H. R. 3658, to amend the Clayton Act by granting a right of action to the U. S. to recover damages under the antitrust laws; and ordered a clean bill to be introduced and reported to the House (P. D203).
9. FOREIGN AID. Rep. Williams, N. J., and others discussed basic principles and objectives of the technical assistance program, and urged provisions be made for this program on the "basis of a longer term than just year to year" (pp. 2510-5).
10. FLOOD CONTROL. Received from the Army Department a proposed bill to provide for the operation and maintenance of certain flood-control projects by local interests; to Public Works Committee.
11. DAIRY PRODUCTS; MARKETING; STATEHOOD; RECLAMATION. Received various State resolutions, etc., urging Congress "to further develop requirements for interstate transportation of dairy products and to eliminate artificial trade barriers" and favoring Alaska-Hawaii statehood and the Colo. reclamation project (p. 2517).
12. RUBBER. Rep. Patman inserted his testimony before the House Armed Services Committee opposing proposed sale of Government-owned rubber-producing facilities (pp. 2505-9).

Be it enacted, etc., That this act may be cited as the "Mining Claims Rights Restoration Act of 1955."

SEC. 2. All public lands belonging to the United States now or hereafter withdrawn or reserved for power development or power sites by statutory rights shall be open to entry for location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands under applicable Federal statutes: *Provided*, That all power rights to such lands shall be retained by the United States: *Provided further*, That locations made under this act within the re-vested Oregon & California Railroad and re-conveyed Coos Wagon grant lands shall also be subject to the provisions of the act of April 8, 1958, Public Law 477 (80th Cong., 2d sess.).

SEC. 3. Prospecting and exploration for and the development and utilization of mineral resources authorized in this act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work: *Provided*, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim; mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

SEC. 4. The owner of any unpatented mining claim located on land described in section 2 of this act shall file for record in the United States district land office of the land district in which the claim is situated (1) within 1 year after the effective date of this act, as to any or all locations heretofore made, or within 60 days of location as to locations hereafter made, a copy of the notice of location of the claim; (2) within 60 days after the expiration of any annual assessment year, a statement as to the assessment work done or improvements made during the previous assessment year.

SEC. 5. Nothing in this act contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation.

SEC. 6. Notwithstanding any other provisions of this act, all mining claims and mill sites or mineral rights located under the terms of this act or otherwise contained on the public lands as described in section 2 shall be used only for the purposes specified in section 2 and no facility or activity shall be erected or conducted thereon for other purposes.

With the following committee amendment:

Page 3, line 18, Insert:

"SEC. 7. No mining claim located pursuant to this act upon surveyed or unsurveyed lands, title to which, except for such location, would following the termination of the withdrawal or reservation, vest in a State for the support of the common or public schools shall create any rights as against the State, and the existence of the claim shall not prevent the vesting of the title in the State."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INVOKING THE AID OF COURTS IN COMPELLING TESTIMONY OF CONGRESSIONAL WITNESSES

The Clerk called the bill (H. R. 780) to prescribe a method by which the Houses of Congress and their committees may invoke the aid of the courts in compelling the testimony of witnesses.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That (a) either House, any committee or subcommittee of either House, and any joint committee of the two Houses of Congress may, by an affirmative vote of a majority of its actual membership, invoke the aid of the United States district courts in requiring the attendance and testimony of witnesses and the production of evidence, in furtherance of any inquiry such House, committee, subcommittee, or joint committee is authorized to undertake.

(b) The United States district court for the district within which the inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person by either House, any committee or subcommittee of either House, or any joint committee of the two Houses of Congress, issue an order requiring such person to appear (and to produce evidence if so ordered) and give evidence relating to the matter in question before such House, committee, subcommittee, or joint committee, as the case may be; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(c) Attorneys of the Department of Justice shall furnish legal assistance in invoking the aid of the United States district courts under subsection (a) to either House, or any committee, subcommittee, or joint committee which requests it.

Mr. KEATING. Mr. Speaker, this is one of the most constructive steps we could possibly take in improving the conduct of congressional investigations. It ties in closely with efforts to develop a code of fair play. It has had little fanfare, because nobody opposes it. The same bill, as H. R. 4975, 83d Congress, introduced by me on May 4, 1953, was favorably reported by the House Committee on the Judiciary and passed the House on August 4, 1954. It is also an essential complement to the administration's immunity bill which became law last year—Public Law 600, H. R. 6899, 83d Congress.

Neither good rules of procedure aimed at making the congressional investigation process work better, nor a good immunity law to strip undeserving witnesses of their shelter behind the fifth amendment, are really going to amount to very much unless the underlying power of Congress to enforce its powers is improved.

The present contempt statute upon which congressional committees are forced to rely is altogether too cumbersome. It makes contempt of Congress, or of any congressional committee, a misdemeanor, providing the recalcitrant witness is cited to the Congress, voted in contempt, indicted by a grand jury and convicted in the ordinary course of the criminal case in some district court. This takes months and years and more often than not, the witness goes free. In any case, even if he receives a fine or

a jail sentence, he has escaped giving the testimony or producing the evidence which the committee wanted, and there is no way in the world to accomplish that result.

The solution is so obvious that I am astonished we have not hit upon it before. Nearly a score of Federal agencies, like the Securities and Exchange Commission and the Federal Communications Commission and the Interstate Commerce Commission, have substantially the same problem, in that they can subpoena witnesses but would be remediless, so far as their own resources are concerned, if the witness should choose to maintain a defiant attitude. What Congress did for all these agencies was to enact a simple provision allowing them to apply to an appropriate Federal district court for an order from the court, compelling the witness to testify, and so forth. When such an order issues, the witness becomes instantly amenable to the court's own contempt powers, which are quite adequate to compel instant and complete obedience. No one can quarrel with the proposition that Congress itself should have the same power that is conferred on these agencies.

There is something else about this proposal which should also be kept in mind: It will have a very healthy effect on the whole conduct of hearings and investigations. It will not limit the rights of the investigators in any way, but at the same time, if a committee applies to a court for this summary remedy, the court would have an opportunity to review the action and give or withhold relief.

The committee could always resort to the old statute. If it relies on this new one, then in that case the witness would also be entitled to go into court and explain to the judge why he was resisting the particular order sought to be enforced against him. I feel that that would naturally tend to cause the committees to be doubly careful, when they are dealing with hostile witnesses, to be sure that their position on each issue is sound and that their procedure leaves no room for well-founded attacks or criticism.

This bill is the most important procedural suggestion I have encountered in nearly a decade of studying congressional investigating committees and their problems. It cures the greatest weakness our committees have had to face, and in the same stroke it actually tends to improve the status and position of any witness who really feels that he is being treated unfairly. It gives him a prompt day in court.

The bill was ordered to be engrossed and read a third time, was read the first time, and passed, and a motion to reconsider was laid on the table.

INNOCENT PURCHASERS OF FUNGIBLE GOODS

The Clerk called the bill (H. R. 1831) to amend the Commodity Credit Corpo-

ration Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McCORMACK. Mr. Speaker, reserving the right to object, this bill was reported out of the Committee on Agriculture. Having in mind the title, it was properly referred to the Committee on Agriculture, but the substance of the bill is clearly something that concerns the Committee on the Judiciary, because if this bill becomes law, it will change the law in relation to certain civil and possibly criminal proceedings not only with reference to the burden of proof in certain cases, but also in relation to the burden of evidence.

Lawyers know that the burden of proof in a criminal case always rests upon the Government, but during the course of the trial of a criminal case the burden of evidence may shift from time to time. As I read this bill, it not only is far-reaching in excluding from criminal prosecution certain purchasers of Commodity Credit items from a warehouseman—and I see the purpose behind that—but also the language of the bill states “goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the warehouseman’s authority to sell such goods.”

In my opinion, this language means that the burden of evidence in addition to the burden of proof is shifted to the Government’s shoulders.

To me it is rather unusual to provide that by law. I realize that there are certain purchasers of Commodity Credit items stored in warehouses that are now subject to civil and criminal prosecution whom this bill means to exclude; and I think there is some merit to that view of it, especially where one buys in good faith or without knowledge of the criminal intent on the part of the warehouseman. I agree that the burden of proof in such case should be upon the Government, but in a criminal case the burden of proof always rests on the Government, whether it be State or Federal. However, the burden of evidence is an entirely different field, a related but different subject.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. CUNNINGHAM. I seem to have a different view of the merits of this bill than does the gentleman from Massachusetts. As I understand, what the bill does is to permit a defendant to plead the fact that he is an innocent purchaser for value without notice. He does not have that right under a peculiar statute at the present time; it does not give him any more right than the gentleman from Massachusetts would have. I do not read into it all the gentleman from Massachusetts seems to.

Mr. McCORMACK. I do not think it is quite as simple as that. It does permit them to plead that they bought in good faith but it throws the burden of proof upon the Government to show that they did not buy in good faith.

Mr. CUNNINGHAM. I think the gentleman is laboring under a misconception of the bill. Right now the defendant does not have the right to plead that he is an innocent purchaser. This simply gives him the right that he has got to prove, I think, that he is an innocent purchaser.

Mr. McCORMACK. The gentleman from Massachusetts is not in disagreement with the gentleman from Iowa on that portion of the gentleman’s statement, that under the present law the Government would have to prove that a person who might have purchased in good faith did not purchase in good faith; I will agree to that. But it is a different principle for the defendant to have the privilege of pleading this defense that is never necessary in a criminal case, because if we pass this bill the burden would rest upon the Government to prove beyond a reasonable doubt that this man did not buy in good faith. To that point I could go, and I might be willing to go further if it were explained to my satisfaction. The first part of the bill changes the burden of proof, or it makes it incumbent upon the Government to prove in certain purchases that he is guilty. Now the bill, even as I read it, also makes it incumbent upon the Government to sustain the burden of evidence. While related in a trial burden of proof is an entirely different proposition from burden of evidence. This matter should be carefully looked into from a legal standpoint to be sure that the position of the Government is protected by not putting an unnecessary burden on the Government that does not exist with reference to other criminal or civil prosecutions.

Mr. REED of New York. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. REED of New York. I rather interested myself in this because of claims that were being settled by the Government against the farmers and other absolutely innocent people. I notice under findings it says:

Under the existing rule of court decisions in this country, an owner of fungible goods, such as grain, wrongfully sold by a warehouseman, can recover from a wholly innocent purchaser of such goods. This rule has been criticized for many years by lawyers and judges who have recognized the harshness and inequity in forcing an innocent purchaser who buys fungible goods in good faith in the normal course of business from a dealer in such goods, to pay for them twice—first to the wrongdoing seller and again to the true owner. The critics of the rule have pointed out, also, that it disrupts normal trading in grain and other fungible goods because a prospective purchaser never knows whether a warehouse-receipt holder might later assert a claim to the goods he bought. This point has become a major problem for grain dealers and the Government alike in recent years because of the large-scale storage operations of Commodity Credit Corporation since World War II.

I should like to advise the gentleman why I am interested in this matter. There are some men at home whose families have been in business, and the farmers have been buying from them for a hundred years. They are fine people,

the finest who ever lived. They would not violate the law. But they can follow this thing through to the innocent farmer and collect from him. That is why I have interested myself in this thing. It looks to me quite un-American as a purpose.

Mr. McCORMACK. I may say to the gentleman that I have no objection to the broad purposes of the bill, but I think the wording of it is such that it has to be viewed with great caution. I am in no way either expressly or by implication criticizing the committee. But this involves a civil and possibly criminal law and, with all due respect to our Committee on Agriculture, I think the House would feel more confident that the bill is drafted properly if we had the opinion of the competent legal authorities in this House, particularly members of the Committee on the Judiciary. That is the particular committee that should be interested. I hope that the Committee on the Judiciary will on the next call of the Consent Calendar look this bill over and informally report if it is drafted right. It states “provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the warehouseman’s authority to sell such goods.”

We could start out with that left out, leaving in the first part.

I can see where there may be quite a different situation in regard to burden of evidence. I think the committee has a justifiable case for legislating and I want it understood I am not opposed to that. On the other hand, I would want to be careful that we do not go too far and put an unnecessary burden in relation to the burden of evidence on the Government. Lawyers know that the burden of evidence constantly shifts from one side to the other during the trial of a lawsuit and according to the technical nature of the evidence submitted by either side.

Mr. REED of New York. In the State of New York we have something like a million milk cattle. They supply the milkshed. There is your big milkshed in Massachusetts. They have it in Maine, they have it in New Jersey, they have it in Pennsylvania. Every one of these farmers has to buy practically all of his feed from the West. This grain is stored by the millions of bushels in these warehouses. The farmers go to their reputable dealers. I am speaking now because of this great interest here, and it is working a tremendous hardship; it is placing a tremendous burden on the Government itself. This law is too drastic a law for the purpose here intended, and I want to have this say because I may not be here on the next occasion when this bill comes up. But, this works such a tremendous hardship on the farmers and the dairymen in our part of the country, even as far away as Wisconsin and all over. They have no possible way of knowing whether they are violating the law or not. And, they cannot starve their cattle; they have to have the grain. I hope the gentlemen will not be too particular about this.

Mr. McCORMACK. Might I say to the gentleman from New York that there is

nothing in what the gentleman has said that is in disagreement with my state of mind or what I have said. On the other hand, in trying to bring relief, I would regret it keenly if later we found out we enacted into law a bill that hamstrung the Department of Justice to go after the guilty persons. The burden of proof always rests on the Government, but the burden of evidence is an entirely different proposition. It shifts from time to time.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Iowa.

Mr. CUNNINGHAM. I would like to recite to the gentleman what happened in certain Midwestern States that gave rise to this bill. There have been half a dozen bills like it before the Committee on Agriculture and also before the other body. This bill was favorably reported last year, but we did not get action on it before adjournment. Here is what actually happened in the Midwest. We had Government grain stored with an elevator man. He had his own grain mixed in with it. This man went broke. He sold Government graded grain mixed with his own, but the innocent farmers or grain dealers, long after he went broke, could not collect from this man who went broke. Now they have sued everyone who has gotten grain from this elevator man. They have sued the same owners for the same money, and it runs into the hundreds of thousands of dollars in each claim, and under this law those defendants are not permitted to show that they were innocent purchasers for value without notice. All this bill does is to remove that obstacle so that they can show it in defense.

Mr. McCORMACK. There is nothing the gentleman has said that is inconsistent with what I have said. The gentleman is talking on one subject. I thoroughly agree with the gentleman, but I am talking on another subject. I do not intend to sit here and let a bill go through which later I might regret when I might be putting an unreasonable burden on the Department of Justice. I am suggesting that the matter go over until the next Consent Calendar, and I hope some of my friends will level on this in an informal way so that they can advise the House when this bill comes up again as to whether or not they think the bill is in proper form and, if not, what amendments they think should be adopted to the bill to obtain the objective desired.

Mr. MULTER. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. MULTER. Mr. Speaker, I am very happy that the gentleman has alerted the attention of the House to this particular bill. Incidentally, while doing that, he ought to alert the membership to the recommendations of the Hoover Commission in their report on the reorganization in the executive departments just released in March 1955, to which our distinguished colleague, the gentleman from California [Mr. HOLIFIELD], referred yesterday. In that report, among other things, they recommend the dis-

continuance of some of the programs affected by the very bill that the distinguished majority leader has referred to. But, more important, I think the membership should be alerted to the other recommendations that are in this report and all of which are rolling back all of the programs that we have made in the last 20 years. Mr. Hoover recommends now that we do away with all the lending agencies that will help the farmer, that will help the veteran, that will help the small-business man, and the peculiar part of it is that in these recommendations, while they recommend that the Export-Import Bank should discontinue its short-term loan policy, it approves the so-called long-term loan policy, but co-existent with that we get an announcement from the Export-Import Bank that they just extended a \$250 million credit to Argentina. Now, there is plenty of objection to be raised to that, because it is a totalitarian government.

But more than that, what they are doing is actually financing companies like the Armco International Corp., the Westinghouse Electric International Corp., so that they can send their materials down there and get all their money out; that, in spite of the fact that this Government has twice—once only a short time ago, and once a few years ago—practically confiscated American property and American money in that country. Yet this Commission now recommends that we do away with all these lending agencies, discontinue the Commodity Credit Corporation program, and continue a program such as the \$250 million loan to which I have just referred.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. BYRNES of Wisconsin. I wonder if somebody would explain what all this has to do with the bill before us relating to the protection of innocent purchasers of fungible goods.

Mr. McCORMACK. I am sure that the gentleman from New York [Mr. MULTER] felt that it was a matter of giving information to Members of the House.

Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts [Mr. McCORMACK]?

There was no objection.

ABOLISHING OLD KASAAN NATIONAL MONUMENT, ALASKA

The Clerk called the bill (H. R. 4046) to abolish the Old Kasaan National Monument, Alaska, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Old Kasaan National Monument, in Alaska, is hereby abolished, and the lands thereof shall hereafter be administered as a part of the Tongass National Forest.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELIEF FOR MEMBERS OF ARMED FORCES ON SHIPMENT OF HOUSEHOLD GOODS FROM OVERSEAS

The Clerk called the bill (H. R. 2121) to provide for the relief of certain members of the Armed Forces who were required to pay certain transportation charges covering shipment of their household goods and personal effects upon return from overseas, and for other purposes.

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if someone would explain why it is necessary.

Mr. DURHAM. Mr. Speaker, this bill is necessary primarily because of a change in regulations and law passed in the 83d Congress. The total of members of the Armed Forces concerned, as given to us, is 500 in the Army, 130 in the Navy, and 50 in the Marine Corps. These members of the Armed Forces, in good faith, shipped overseas a certain poundage of household goods. The change in the regulations came about in the 83d Congress. When they came back, they came back after the change in the regulations, and they were charged for that difference according to the poundage. The amount involved averages about \$100 in each case. We did not find any case that came to over \$100.

Mr. GROSS. So it becomes necessary because of legislation enacted by the Congress?

Mr. DURHAM. That is correct, when they made a change in the regulations.

Mr. FORD. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield.

Mr. FORD. It is my recollection that in the 81st or in the 82d Congress a cut-back in the limitation was made. These men who are affected went overseas under the old regulations. They were ordered back to the United States under the reduced limitations. Therefore, it was not an act of good faith to send them over under one limitation and bring them back under another. Last year we authorized this group to come back under the limitation under which they had been sent overseas, and the request here is to permit them to recoup through what appears to be a justified claim.

Mr. DURHAM. Mr. Speaker, that is correct.

Mr. GROSS. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That any member of the Armed Forces who was transferred to a duty station outside the continental United States or in Alaska under orders which relieved him from a duty station within the United States before July 10, 1952, and who—

(1) was transferred to any one or more other duty stations outside the continental United States or in Alaska after July 9, 1952, and before his transfer back to the United States; or

(2) was transferred back to the United States under orders which relieved him from a duty station outside the continental United States or in Alaska after July 9, 1952, and before July 1, 1953,

is entitled, for each of those transfers, to transportation, packing, crating, temporary storage, drayage, and unpacking of his house-

hold goods and personal effects without regard to the weight limitations of section 632 of the Department of Defense Appropriation Act, 1953 (66 Stat. 537). Any member who has made a repayment to the United States because the net weight of his household goods and personal effects in such transfer or transfers exceeded the weight limitations of section 632 may be paid the amount involved, if otherwise proper.

SEC. 2. The Comptroller General of the United States, or his designee, shall relieve disbursing officers, including special disbursing agents, of the Armed Forces from accountability or responsibility for any payments relating to shipments described in this act, and shall allow credits in the settlement of the accounts of those officers or agents for payments which appear to be free from fraud and collusion.

SEC. 3. Any appropriations available to the military department concerned for the pay and allowances of military personnel are available for payments under this act without regard to any weight limitations upon the shipment of household goods and personal effects which may be contained in the appropriation act concerned.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This is the last eligible bill on the calendar.

CREEK NATION OF INDIANS

Mr. ENGLE. Mr. Speaker, I ask unanimous consent for the immediate consideration of Item No. 17 on the calendar, the bill (H. R. 4367) to provide for the distribution of funds belonging to the members of the Creek Nation of Indians, and for other purposes, notwithstanding the fact that it has been on the calendar 2 legislative days rather than 3. I have cleared the matter with the official objectors and the leadership on both sides.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. DEANE. Reserving the right to object, Mr. Speaker, and I shall not object, it is the feeling that with the staff the objectors have to do research on these bills, in the future the bills should follow the regular course of procedure and be on the calendar the number of days required before they are brought up for consideration.

I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from California?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the provisions of section 1 of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1021, 1033), under the heading "Bureau of Indian Affairs" directing the Secretary of the Interior to make a per capita payment to the members of the Creek Tribe of Indians on the basis of a roll to be made as of December 4, 1933, are repealed.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to use any funds on deposit in the Treasury of the United States to the credit of the Creek Nation to complete allotment equalization payments to persons with claims thereto that were filed and adjudicated in accordance with the

provisions of section 18 in the act of June 30, 1919 (41 Stat. 3, 24).

(b) The Secretary of the Interior is authorized to distribute per capita to the members of the Creek Nation whose names appear on the final rolls approved under the act of April 26, 1906 (34 Stat. 137), or to their heirs or legatees, any funds heretofore or hereafter deposited in the Treasury of the United States to the credit of the Creek Nation that are not used for the purposes of subsection (a) of this section and that are not needed, in the judgment of the Secretary, for other tribal purposes.

(c) The Secretary of the Interior is hereby authorized and directed to distribute among the persons entitled thereto the funds appropriated by chapter XII of the Third Supplemental Appropriation Act, 1952 (66 Stat. 101, 121), in payment of the judgment entered by the Indian Claims Commission in favor of the Loyal Creek Band or Group of Creek Indians et al., Docket No. 1. Such funds shall be paid to those persons whose names appear on the payroll prepared pursuant to the act of March 3, 1903 (32 Stat. 982, 994), by J. Blair Schoenfelt, United States Indian Agent, or to their heirs or legatees, on a pro rata basis in proportion to the amounts appearing opposite their names on such payroll.

SEC. 3. (a) If a person entitled to a payment authorized by this act is deceased, such payment shall be made to his heirs or legatees, determined in accordance with the laws, relating to the distribution of personal property, of the Creek Nation if the decedent died before January 1, 1898, or of the State of Arkansas in effect at the time of death if the decedent died before November 16, 1907, or of the State of Oklahoma in effect at the time of death if the decedent died on or after November 16, 1907. For the purposes of this section the decedent shall be regarded as an owner in possession of the payment at the time of his death.

(b) Before a payment authorized by this act is made to an heir or legatee of a deceased person, proof of death and heirship or bequest satisfactory to the Secretary of the Interior shall be submitted to him, and his findings with respect thereto shall be final and conclusive. Where satisfactory proof of death and heirship or bequest is already available to the Secretary, no additional submission shall be required.

SEC. 4. Funds payable under this act to minors or to persons under legal disability shall be paid to such representatives and under such conditions as the Secretary of the Interior may direct. The distribution of funds under this act shall not be subject to any lien, except for debts owed to the United States or to Indian organizations indebted to the United States, and shall not be taxable.

SEC. 5. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated the sum of \$200,000 to remain available until expended, for necessary expenses incident to the distribution of funds authorized by this act.

SEC. 6. The Secretary of the Interior is authorized to issue rules and regulations necessary for the purposes of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar Day. The Clerk will call the first bill on the Private Calendar.

GABRIELLA SARDO

The Clerk called the bill (H. R. 881) for the relief of Gabriella Sardò.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of sections 101 (a) (27) (A) and 205 of the Immigration and Nationality Act, the minor child, Gabriella Sardò, shall be held and considered to be the natural-born alien child of William Sardò, a citizen of the United States.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BORIS IVANOVITCH OBLESOW

The Clerk called the bill (H. R. 1020) for the relief of Boris Ivanovitch Oblesow.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Boris Ivanovitch Oblesow shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHRISTINE SUSAN CAIADO

The Clerk called the bill (H. R. 1048) for the relief of Christine Susan Caiado.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (4) of the Immigration and Nationality Act, Christine Susan Caiado may be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act: *Provided*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. ANITA SCAVONE

The Clerk called the bill (H. R. 1130) for the relief of Mrs. Anita Scavone.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (9) of the Immigration and Nationality Act, Mrs. Anita Scavone may be admitted to the United States for permanent residence if she is found to be otherwise admissible under provisions of that act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice have knowledge prior to the enactment of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued March 30, 1955
For actions of March 29, 1955
84th-1st, No. 56

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HIGHLIGHTS: House passed bills to: Include onions under CEA; protect fungible goods purchasers from CCC claims. House committee reported bill to permit use of private stocks in exports under Public Law 480. Senate committee ordered reported Colo. reclamation project bill.

HOUSE

1. ~~SURPLUS COMMODITIES.~~ ^{Committee} The Agriculture reported without amendment S. 752, to amend the Agricultural Trade Development and Assistance Act (Public Law 480, 83rd Cong.), so as to eliminate the requirement that privately owned stocks exported thereunder be replaced from CCC stocks (H. Rept. 309) (p. 3335).
2. ~~COMMODITY EXCHANGE, CCC CLAIMS.~~ Passed without amendment H. R. 122, to include onions within the provisions of the Commodity Exchange Act (pp. 3307-8); and H. R. 1831, to amend the CCC Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from CCC claims (pp. 3307, 3310-1).
Rep. O'Hara, Ill., inserted a Chicago Potato Jobbers Association letter favoring a study "into the general question of a futures market in perishables with the thought of the possible enactment of further legislation covering the subject" (p. 3308).
3. ~~APPROPRIATIONS.~~ The "Daily Digest" states that the Rules Committee "refused to grant a rule waiving points of order against H. R. 5240, the independent offices appropriation bill for 1956" (p. D263).
4. ~~LOYALTY DAY.~~ Passed without amendment H. J. Res. 184, to designate the 1st day of May 1955 as Loyalty Day (p. 3307).
5. ~~FEES AND CHARGES.~~ Received an American Bar Association resolution "urging the repeal of title V, entitled 'Fees and Charges' of the Independent Offices Appropriation Act" (p. 3336).

6. TREATIES. Received a Knights of Columbus (Long Island, N. Y.) petition expressing support of the Bricker amend^{ment} to limit the President's treaty-making powers (p. 3336).
7. MONOPOLIES. Passed without amendment H. R. 3659, to increase the maximum fine which may be imposed upon conviction for each count of an indictment in a criminal suit for violation of the Sherman Antitrust Act from \$5,000 to \$50,000 (pp. 3320-30), after rejecting amendments by Rep. Patman to increase further the maximum fine in the case of violations by corporations (pp. 3327-9).
8. WATER RESOURCES. The Interior and Insular Affairs Committee ordered reported with amendment H. R. 3990, to authorize the Interior Department to investigate water resources projects in Alaska (p. D262).
9. RUBBER. Rep. Philbin claimed that the Rubber Producing Facilities Disposal Commission violated Public Law 205, 83rd Cong., when it accepted a lump-sum proposal from one company for certain facilities instead of a proposal enumerating the amount proposed to be paid for each facility to be purchased (pp. 3330-1).
10. RECESS. Agreed to H. Con. Res. 103, providing that when the two Houses adjourn on Monday, Apr. 4, they stand adjourned until Wed., Apr. 13 (p. 3334).

SENATE

11. RECLAMATION. The Interior and Insular Affairs Committee ordered reported with amendments S. 500, to authorize the Colo. River reclamation project (p. D260).

ITEMS IN APPENDIX

12. PRICE SUPPORTS; FAMILY-SIZE FARMS. Rep. Burdick inserted his letter explaining why he supported "full parity and the family-type farmer" (pp. A2218-9).
13. TRADE AGREEMENTS; TARIFFS. Rep. Lane inserted Prof. Seymour E. Harris' (Harvard Univ.) letter suggesting safeguards to H. R. 1 (the trade agreements bill) which would protect industries which experience much unemployment against tariff reductions (p. A2223).
14. ECONOMIC REPORT. Rep. Klein inserted Geo. Meany's, pres., AFL, statement discussing and criticizing the President's economic report and stating that "timidity rather than bold leadership is the outstanding characteristic of the report" (pp. A2199-201).
15. EXPORT-IMPORT BANK. Rep. Multer inserted a Nat'l Foreign Council Trade letter criticizing certain statements made by the Hoover Commission in their report on lending agencies and requesting "that appropriate steps be taken to correct the erroneous impression conveyed by this report . . ." (pp. A2208-9).
16. TEXTILES; IMPORTS. Rep. Lane inserted a Textile Workers Union of America statement discussing problems confronting the textile industry due to loss of export markets and displacement by imports (pp. A2209-10).

84TH CONGRESS
1ST SESSION

H. R. 1831

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, MARCH 10), 1955

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Commodity Credit Corporation Charter Act, as
4 amended (62 Stat. 1070), is hereby amended by adding at
5 the end thereof the following new section:

6 “SEC. 19. RELEASE OF INNOCENT PURCHASERS OF
7 CONVERTED GOODS.—A buyer in the ordinary course of
8 business of fungible goods heretofore or hereafter sold and
9 physically delivered by a warehouseman who was also in the

1 business of buying and selling such goods shall take or be
2 deemed to have taken such goods free of any claim, existing
3 or hereafter arising, by Commodity Credit Corporation,
4 based on the want of authority in the warehouseman to sell
5 such goods, provided the buyer purchased such goods for
6 value in good faith and did not know or have reason to
7 know of any defect in the warehouseman's authority to sell
8 such goods."

Passed the House of Representatives March 29, 1955.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

MARCH 30 (legislative day, MARCH 10), 1955
read twice and referred to the Committee on
Agriculture and Forestry

mous consent that it be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMODITY CREDIT CORPORATION CHARTER ACT

The Clerk called the bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. POAGE. Mr. Speaker, reserving the right to object, I want to see this bill passed, but the gentleman from New York [Mr. CELLER] wanted to ask a question on this bill. I ask unanimous consent that the bill be passed over until the end of the calendar.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DESIGNATING MAY 1, 1955, AS LOYALTY DAY

The Clerk called the resolution (H. J. Res. 184) to designate the 1st day of May 1955 as Loyalty Day.

There being no objection, the Clerk read the joint resolution, as follows:

Resolved, etc., That the 1st day of May 1955 is hereby designated as Loyalty Day and is set aside as a special day for the reaffirmation of loyalty to the United States of America and for the recognition of the heritage of American freedom; and the President of the United States is authorized and requested to issue a proclamation calling upon officials of the Government to display the flag of the United States on all Government buildings on such day and inviting the people of the United States to observe such day in schools and other suitable places with appropriate ceremonies.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING SECTION 1 OF THE ACT OF MARCH 12, 1914

The Clerk called the bill (H. R. 3338) to amend section 1 of the act of March 12, 1914.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the first sentence of section 1 of the act of March 12, 1914 (38 Stat. 305), as amended (49 U. S. C., sec. 301), is further amended by striking out the word "twenty" and inserting in lieu thereof the word "fifty."

With the following committee amendment:

Page 1, line 6, strike out "fifty" and insert "fifty-five."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE RELIEF OF CERTAIN MEMBERS OF THE ARMY, NAVY, AND AIR FORCE

The Clerk called the bill (H. R. 3560) to provide for the relief of certain members of the Army, Navy, and Air Force, and for other purposes.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. DEANE. Mr. Speaker, reserving the right to object, I point out that this particular bill goes beyond the direct or indirect amount set by the objectors' committee on the Consent Calendar.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. DEANE. I yield to the gentleman from Iowa.

Mr. CUNNINGHAM. I agree with what the gentleman says and also state that on the merits this apparently is a very laudable bill. There will be few, if any, voting against it if it comes up under a rule. However, we have a rule on the objectors' committee that any bill that calls for an expenditure of more than a million dollars should not be passed by unanimous consent. Therefore, I suggest that the gentleman request that this bill be passed over without prejudice.

Mr. DEANE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WAIVER OF BOND REQUIREMENTS IN COAST GUARD CONTRACTS

The Clerk called the bill (H. R. 3885) to amend the act of April 29, 1941, to authorize the waiving of the requirement of performance and payment bonds in connection with certain Coast Guard contracts.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act of April 29, 1941 55 Stat. 147 (40 U. S. C. 270e), is hereby amended to read as follows: "The Secretary of the Army, the Secretary of the Navy, or the Secretary of the Treasury may waive the act of August 24, 1935 (49 Stat. 793), with respect to contracts for the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, munitions, materiel, or supplies of any kind or nature for the Army, Navy, or Coast Guard, respectively, regardless of the terms of such contracts as to payment or title."

With the following committee amendments:

Page 1, line 5, after the word "Navy," insert "the Secretary of the Air Force."

Page 1, line 7, after the words "with respect to" add the words "cost-plus-a-fixed-fee and other cost-type contracts for the construction, alteration, or repair of any public build-

ing or public work of the United States with respect to."

Page 2, line 4, after the word "Navy," insert "Air Force."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE COMMODITY EXCHANGE ACT SO AS TO INCLUDE ONIONS

The Clerk called the bill (H. R. 122) to amend the Commodity Exchange Act.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. O'HARA of Illinois. Mr. Speaker, reserving the right to object, I would like to inquire if this measure does not cover the subject matter of correspondence I have had with Mr. H. Haskell Lurie, one of my distinguished constituents and counsel of the Chicago Potato Jobbers Association. Mr. Lurie wrote me in 1953 and again in 1954, when there was before us a legislative proposal, I think, of similar character. Mr. Lurie felt that a great evil was being perpetrated through the unregulated speculation in the futures market in onions. I would like to inquire if the bill now before us is intended to correct a situation that Mr. Lurie has pictured as being harmful both to the growers and to the consuming public.

Mr. KING of Pennsylvania. Mr. Speaker, if the gentleman will yield, this bill only puts onions under the authority of the exchange. They will then have the same authority over this commodity that they have over other commodities that are under the act. Those powers are somewhat limited, but nevertheless desirable in this case.

I hope the gentleman will not object.

Mr. O'HARA of Illinois. I assure the distinguished and able gentleman from Pennsylvania that it is not my intention to object to this measure which seems to me to serve a beneficent purpose. I am interested, however, in learning how far this legislation will go in correcting all the conditions which Mr. Lurie has pictured as harmful. I am not unmindful also that the Chicago Mercantile Exchange, which is, I understand, the only contract market in the country, is located in the city from which I come. There seems to be a difference of opinion between the Chicago Mercantile Exchange and the association represented by Mr. Lurie on the question of any futures trading in perishables. Arguments of the Chicago Mercantile Exchange have been well presented by S. L. Austin, director of public relations of the exchange. In answer thereto Mr. Lurie has stated:

If the purpose of future trading aims at stabilizing the price of onions and affecting a normal distribution of the available supply, then we, whose concern it has been for many years to buy and sell onions in a normal and free method based upon the law of supply and demand, maintain that the

future trading on exchanges has crippled the industry from the producer to every distributor and has certainly been a costly experience to the consumer.

We would welcome an examination by Secretary of Agriculture Benson or any other delegated authority of the Department of Agriculture to determine the advantage of future trading of onions to the economy of the Nation, the producers, and the consuming public.

I notice in the letter of the Honorable True D. Morse, Under Secretary of Agriculture, as printed in report No. 285 of the committee this comment:

In view of the perishable nature of the commodity and its susceptibility to wide price fluctuations, both before and since the advent of futures trading in onions, regulation of such trading under the Commodity Exchange Act could not reasonably be expected to prevent the wide seasonal price swings traditional in the marketing of onions.

Enactment of the bill would, however, enable the Department to obtain the facts as to what takes place in the onion futures market and to deny trading privileges thereon to any person found, after notice and opportunity for hearing, to have engaged in manipulative trading or other unlawful trade practices. Also, information developed through investigations and reports required under authority of the Commodity Exchange Act could provide a factual basis for determining whether futures trading in onions serves the public interest or whether the Congress should consider legislation looking to the drastic curtailment or prohibition of such trading.

Do I understand that the measure we are considering today is preliminary to a study later to be made, as intimated in Mr. Morse's letter, into the general question of a futures market in perishables with the thought of the possible enactment of further legislation covering the subject?

Mr. KING of Pennsylvania. Yes; it is thought that that would be desirable following this enactment.

Mr. O'HARA of Illinois. Does this legislation in part answer the question raised by the potato and onion growers?

Mr. KING of Pennsylvania. Yes; I have had correspondence with them, and this is in line with their wishes.

Mr. O'HARA of Illinois. Mr. Speaker, I withdraw my reservation and ask unanimous consent to extend my remarks at this point in the RECORD to include one of the letters of Mr. Lurie, to which I have referred.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. O'HARA of Illinois. Mr. Speaker, by unanimous consent graciously granted, I am extending my remarks to include Mr. Lurie's letter, as follows:

HON. BARRATT O'HARA,
House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN: My legal experience and practice are closely associated with agricultural problems, and, therefore, I have been projected into the effect of futures trading on onions on the Chicago Mercantile Exchange, which is the only contract market in the country. The problem, while affecting the best interests of distributors and consumers in the Chicago area, is of course on a national level.

The problem is of serious proportion today affecting merchants, with special emphasis

on the Chicago merchants because of the fact that Chicago is the contract market for future trading of onions. The ramifications of the future trading have affected the distributive trade throughout the Nation, and have most certainly been detrimental to producers and the public at large. There is a great deal of interest throughout the country today, and especially in your State, to examine this whole subject of future trading in onions. It is our contention that the public would be amazed at the effect of the speculative interests on the price of the commodity.

It should also interest you to know that the trading on the Chicago Mercantile Exchange, which is the contract market for futures on onions, has become so great and widespread that even the public has entered its speculative designs. This they have done with relatively no knowledge of the commodity, a subject which, in our opinion, is not a proper one for future trading.

It is also significant that while over the last several years the volume both in quantity and dollar-value and widespread interest among the public has been large, onions have been traded under the rules and regulations made by the governing body of the Exchange, free of any of the restrictions, conditions, and limitations contained in the Commodity Exchange Act, notwithstanding the fact that each year for the past several years, objections have been raised by the trade in general and the consuming public of the unusual unreasonable fluctuations in the future trading market, often out of proportion to the law of supply and demand.

We bring this to your attention with the hope that the entire matter may be brought out into the open and examined. Rest assured that you will receive our cooperation. This letter is no place for statistics and facts concerning the problem, but we can readily, should you be interested, supply important data.

The effect of unregulated future trading of fresh fruits or vegetables which in themselves are of a highly perishable nature inherent in the commodity itself, could conceivably lead to even more serious consequences than appear on the surface at this time, and could result in a maladjustment of the distribution of other perishables, to the disadvantage of the economy of the Nation.

Yours very truly,
H. HASKELL LURIE,
Counsel, Chicago Potato Jobbers
Association.

(Mr. OSTERTAG asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. OSTERTAG. Mr. Speaker, the House has previously acted favorably upon a bill intended to accomplish the purpose of H. R. 122, but an acceptable amendment added to that earlier measure by the other body prevented its final passage.

H. R. 122 is designed to effect orderly trading in onions futures. It will extend to onion growers the same protection against unwarranted speculation that is now enjoyed by producers of a host of other commodities.

Experience has shown that such protection is urgently required. For lack of it, onion markets have been subject to demoralization by speculators, while producers have suffered drastic losses and consumers have paid exorbitant prices.

H. R. 122 is thus in the interest of both producers and consumers. It will not prevent futures trading in onions, but it will enable the Department of

Agriculture to intervene where such trading appears to be manipulative of the market, or otherwise unlawful. At present, the Department has no such authority, and producers and consumers are deprived of its protection against chaotic marketing conditions. H. R. 122 provides the basis for orderly trade, keyed to supply and demand, of an important economic crop.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 2 (a) of the Commodity Exchange Act, as amended (7 U. S. C. 2), is amended by inserting "onions," after the word "eggs," in the third sentence thereof, so that onions are added to the definition of the word "commodity" for purposes of said act.

SEC. 2. This act shall take effect 60 days after the date of its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SETTLEMENT OF CLAIMS OF COAST GUARD PERSONNEL

The Clerk called the bill (H. R. 3661) to amend section 490 of title 14, United States Code, relating to the settlement of claims of military and civilian personnel of the Coast Guard, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 490 of title 14 of the United States Code is amended as follows:

(1) By redesignating subsections (b), (c), and (d) thereof as (c), (d), and (e), respectively, and by inserting after subsection (a) thereof the following new subsection:

"(b) In the event of the death of any person among the military personnel or civilian employees enumerated in subsection (a), the Secretary may consider, ascertain, adjust, determine, settle, and pay any claim, otherwise cognizable under this section, presented by the survivor of such person for damage to or loss, destruction, capture, or abandonment of the personal property of such person, regardless of whether such damage, loss, destruction, capture, or abandonment occurred concurrently with or subsequent to such death. For the purposes of this section, the term 'survivor' means surviving spouse, child or children, parent or parents, or brothers or sisters or both, of the decedent, and claims by survivors shall be settled and paid in that order of precedence."

(2) By amending redesignated subsection (c) thereof to read as follows:

"(c) No claim shall be settled under this section unless presented in writing within 2 years after the accident or incident out of which such claim arises has occurred; if such accident or incident occurs in time of war or in time of armed conflict in which the Armed Forces of the United States are engaged, or if war or such armed conflict intervenes within 2 years after its occurrence, any claim may, on good cause shown, be presented within 2 years after such good cause ceases to exist, but not later than 2 years after peace is established or such armed conflict terminates. The dates of commencement and termination of an armed conflict for the purpose of this subsection shall be as established by concurrent resolu-

tion of the Congress or by determination of the President."

SEC. 2. Notwithstanding the provisions of section 490 of title 14, United States Code, as amended by this act, any claim cognizable under that section which has not heretofore been presented for consideration, or has been presented for consideration and disapproved for the reason that the claimant did not file such claim within the time authorized by law, or any claim cognizable thereunder of any survivor which has not heretofore been presented for consideration, or has been presented for consideration and disapproved for the reason that heretofore such survivor acquired no right of recovery under that section may, at the written request of the claimant made within 1 year from the date of the enactment of this act, be considered or reconsidered and settled in accordance with the provisions thereof.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR RELIEF OF CERTAIN ARMY AND AIR FORCE NURSES

The Clerk called the bill (H. R. 4051) to provide for the relief of certain Army and Air Force nurses, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That all payments of longevity pay heretofore made to Army and Air Force nurses for service after April 15, 1947, and before October 1, 1949, are validated to the extent that those payments were based upon service performed by the persons concerned as nurses or as commissioned officers of the Army Nurse Corps, Navy Nurse Corps, or Public Health Service. Any Army or Air Force nurse who has made a repayment to the United States of the amount so paid to her as longevity pay is entitled to be paid the amount involved, if otherwise proper.

SEC. 2. The Comptroller General of the United States, or his designee, shall relieve disbursing officers, including special disbursing agents, of the Army and the Air Force from accountability or responsibility for any payments described in section 1 of the act, and shall allow credits in the settlement of the accounts of those officers or agents for payments which appear to be free from fraud and collusion.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SETTLEMENT OF CLAIMS FOR DAMAGE OR LOSS OF PROPERTY OR PERSONAL INJURY OR DEATH CAUSED BY MILITARY OR CERTAIN CIVILIAN EMPLOYEES OF THE UNITED STATES

The Clerk called the bill (H. R. 3557), to further amend the act of July 3, 1943 (ch. 189, 57 Stat. 372), relating to the settlement of claims for damage to or loss or destruction of property or personal injury or death caused by military personnel or certain civilian employees of the United States, by removing certain limitations on the payment of such

claims and the time within which such claims may be filed.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. CUNNINGHAM. Mr. Speaker, reserving the right to object—and I do not believe it will be necessary to object—I should like to inquire of the chairman or some member of the Committee on the Judiciary or the author of the bill something with regard to this proposed measure.

The question I desire to ask is this:

I note it states that the cost to the Army for the first year will be \$35,000, the Air Force \$100,000, and that no worthwhile estimate of the increase in cost to the Navy and the Marine Corps is possible. I expect that since the amount for the Army is \$35,000 and the Air Force \$100,000, in all probability the amount for the Navy and the Marine Corps would not be any more. What I am concerned about is the total cost of the four branches of the service. Would that cost, in the opinion of the gentleman, be in excess of \$1,000,000?

Mr. LANE. If I may answer that question, may I say that it would be far less than \$1,000,000, as I understand it.

Mr. CUNNINGHAM. Would the gentleman say that the same is true of the next two succeeding bills on the calendar, calendar Nos. 27 and 28?

Mr. LANE. I would. The only bill that would exceed that amount was the one to which the official objectors committee objected, the first one of that kind that we had on the calendar.

Mr. CUNNINGHAM. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Reserving the right to object, Mr. Speaker, I should like to ask if this applies to payment of claims in foreign countries? What is the purpose of this measure?

Mr. LANE. May I say to the gentleman from Iowa that section 1 of the act of July 3, 1943, as amended (31 U. S. C. 223b) authorizes the settlement of claims based on loss of or damage to property or personal injury or death resulting from noncombat activities of the Armed Forces. Ordinarily, there is a 1-year statute of limitations on these claims. However, if the accident or incident on which the claim is based occurs during or within 1 year before a war, the claim may, for good cause shown, be presented within 1 year after peace is established. Section 2 (c) of Public Law 450 of the 82d Congress amended the basic statute to provide that claims arising after June 23, 1950, and before the termination of the emergency proclaimed by the President on December 16, 1950, may be presented within 1 year after the termination of that national emergency or April 1, 1953, whichever is earlier. By Public Law 12, 83d Congress, the termination date was changed from April 1, 1953, to July 1, 1953, and, by Public Law 96, was changed to August 1, 1953.

This proposal would amend the basic law to provide a 2-year statute of limita-

tions for filing claims thereunder instead of the 1 year now provided. This change would be consistent with a similar change made in the Military Personnel Claims Act by Public Law 439, 82d Congress, approved July 3, 1952, and is considered advisable in the interest of creating uniformity with respect to the statute of limitations in these claims laws.

Mr. GROSS. Will the gentleman state whether this applies to the payment of damages in foreign countries as well as domestically?

Mr. LANE. As I understand it, it applies to all claims.

Mr. GROSS. Then what is the nature of the bill that is to follow it? Does that deal with the same subject matter?

Mr. LANE. I would have to check that. I am unable to answer that question at the moment. I will be glad to look into it and give the gentleman a report on that just as soon as we have a chance.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. LANE. I yield to the gentleman from Pennsylvania.

Mr. WALTER. Is it not a fact that this bill applies only to claims of United States citizens, either military or civilian personnel working for the military in the activities in which they are engaged?

Mr. LANE. That is true.

Mr. GROSS. It does not apply to foreign governments or foreign civilians?

Mr. WALTER. No.

Mr. LANE. But it may apply to the claims of citizens outside the country.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the second sentence of section 1 of the act of July 3, 1943 (ch. 189, 57 Stat. 372), as amended, is hereby amended by striking out the words "one year" and inserting in lieu thereof the words "two years."

SEC. 2. That the second proviso of section 1 of said act is hereby amended to read as follows: "Provided, That if such accident or incident occurs in time of war or armed conflict, or if war or such armed conflict intervenes within 2 years after its occurrence, any claim may, on good cause shown, be presented within 2 years after peace is established or such armed conflict terminates. The dates of commencement and termination of an armed conflict for the purpose of this act shall be established by concurrent resolution of the Congress or by determination of the President."

SEC. 3. That the third sentence of the first section of said act is hereby amended by deleting therefrom the words "The amount allowed on account of personal injury or death shall be limited to reasonable medical, hospital, and burial expenses actually incurred, except that," and by capitalizing the next following word "no."

SEC. 4. That the amendment made by the third section of this act shall be effective only with respect to claims accruing after the date of its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SETTLEMENT OF CLAIMS FOR DAMAGES OCCASIONED BY ARMY, NAVY, AND MARINE CORPS FORCES IN FOREIGN COUNTRIES

The Clerk called the bill (H. R. 3561) to further amend the act of January 2, 1942, entitled "An act to provide for the prompt settlement of claims for damages occasioned by Army, Navy, and Marine Corps forces in foreign countries."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. PATMAN. Reserving the right to object, Mr. Speaker, I would like to know something about this bill. I wonder if the author of the bill is here, or someone who could answer this question. This is rather a broad power. I am not familiar with it, but I just wonder if it is sufficiently surrounded with safeguards to protect the public interest. Will someone answer the question?

This is a lot of power to give people to just settle any claim that is presented in a foreign country that is occasioned by the Army, Navy, and Marine Corps. It is possible it has safeguards we would all approve, but I do not like to see a bill like this go through unless we know what it is all about.

Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OF MILITARY PERSONNEL CLAIMS ACT OF 1945

The Clerk called the bill (H. R. 3996) to further amend the Military Personnel Claims Act of 1945.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDING COMMODITY CREDIT CORPORATION CHARTER ACT

The SPEAKER pro tempore. The Clerk will call the bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation, which was passed over.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. CELLER. Mr. Speaker, reserving the right to object, and I shall not object, I do so only for an explanation. Am I correct in understanding that the bill, H. R. 1831, is exclusively designed to provide a defense against claims by the Commodity Credit Corporation against innocent purchasers of Commodity Credit Corporation grain illegally sold by warehousemen?

Mr. POAGE. The gentleman is correct. H. R. 1831 is purely defensive in its nature and must be pleaded and proved by an innocent purchaser who is involved in claims by the Commodity Credit Corporation.

Mr. CELLER. Am I correct also in understanding that the burden of proof is on the innocent purchaser in establishing this defense that, first, he purchased fungible goods for value in good faith; and, second, did not know or have reason to know of any defect in the warehouseman's authority to sell such goods?

Mr. POAGE. The gentleman is correct in both instances. The burden of evidence to establish the qualifications for relief under H. R. 1831 is on the buyer. It is up to him to establish the points mentioned by the gentleman.

Mr. CELLER. Mr. Speaker, I withdraw my reservation of objection.

Mr. CUNNINGHAM. Mr. Speaker, in support of H. R. 1831, I make the following statement of facts:

On September 17, 1953, in the District Court of the United States for the Northern District of Iowa, central division, the United States of America, as plaintiff, commenced action and filed its complaint against Stratton Grain Co., a corporation, defendant, civil action No. 595. The complaint alleges that the action is brought by the United States of America as the real party in interest, based on a claim of Commodity Credit Corporation. The material portion of the complaint is set out as follows:

During the period between October 1, 1950, and April 30, 1952, the defendant, Stratton Grain Co., without the knowledge or consent of the plaintiff, purchased and accepted delivery of, and thereby converted to its own use 151,514.35 bushels, more or less, of corn of the reasonable value of \$283,745.83, the property of the plaintiff stored in the warehouses of Burt Grain Co. at Clarion and Galt, Iowa. By reason of such conversion the defendant, Stratton Grain Co., became indebted to the plaintiff in the cause of action set forth herein in the principal sum of \$283,745.83, and there is now due to the plaintiff from the defendant, Stratton Grain Co., the principal sum of \$283,745.83, together with interest at the rate of 5 percent per annum until the date of judgment herein.

Wherefore plaintiff demands judgment against the defendant, Stratton Grain Co. for the sum of \$283,745.83, together with interest thereon at the rate of 5 percent per annum, together with all court costs expended herein and all other proper relief.

The defendant, Stratton Grain Co., is a Delaware corporation with its principal place of business in Milwaukee, Wis., and with offices in Des Moines, Iowa, and in other cities in the Midwest. It is a member of the Chicago Board of Trade. Its business consists of buying and selling grain and acting as broker in grain transactions. Stratton Grain Co. has appeared in the aforesaid action and has answered, denying the allegations of the complaint.

Similar actions are pending in the Federal Court for the Northern District of Iowa, including one brought by the United States of America against George Boyd and Howard Helgevold, doing business as the United Marketing Associa-

tion. In this action, the claim is for the same amount of money as is claimed in the action against Stratton Grain Co. and for the same amount of corn, the only difference being that the period in which it is alleged the corn was converted is from January 1, 1950, to September 30, 1952. In other words, in this action the Government is making the same claim against United Marketing Association for the same corn as is being made against Stratton Grain Co. There is still a third action for a portion of this same corn, this being the case of United States of America, plaintiff, against Jenkins Trucking Co., a copartnership, No. 580 civil, in which the Government claims that the defendant converted some 77,000 bushels of this same corn and the Government claims damages in the sum of approximately \$145,000. Other actions pending in the northern district of Iowa which do not involve the same corn but in which the Government is claiming the defendants converted Commodity Credit corn are United States of America against Benson-Quinn Co., a corporation, No. 738; United States of America against Farmers Union Grain Terminal Association, a corporation, No. 739; and United States of America against Gannon-Kibler Co., a corporation, No. 740.

In these cases, the Government is asserting that the defendants converted to their own use the said corn and are therefore liable in damages for the value of said corn. The Government takes the position that the fact that the defendants purchased the corn in good faith and paid full value therefor, without knowledge of any interest of the Government therein, does not constitute a defense. The claim of the Government is that the corn belonged to Commodity Credit Corporation and that the sale of the corn by the elevators involved did not pass good title to the purchasers and that this is true even though the purchasers did buy in good faith, for value, and without notice.

An outline of the facts in the case against Stratton Grain Co. will illustrate how these claims of the Government arise. For some years, at least as early as 1949, Commodity Credit Corporation entered into what are known as uniform grain storage agreements with Burt Grain Co. Clarion, Iowa. Burt Grain Co. was a partnership composed of Clyde L. Burt, W. R. Burt, Esther A. Burt, Myrtle Burt, and Marguerite Burt. This partnership operated an elevator at Clarion, Iowa, and an elevator at Galt, Iowa, both in Wright County. At both locations, Burt Grain Co. engaged generally in the business of buying and selling grain, including corn.

Under the terms of the written agreements between Burt Grain Co. and Commodity Credit Corporation, Burt Grain Co. agreed to act as warehousemen for Commodity Credit and to store and preserve the grain of Commodity Credit deposited in the warehouses which were located at Clarion and Galt and which were part of and connected with the elevator properties at those locations.

According to the testimony of Mr. Clyde L. Burt, given in a deposition in the

case brought against Jenkins Trucking Co., the elevator at Clarion had a capacity of 317,600 bushels and the elevator at Galt had a capacity of 135,000 bushels. When Commodity Credit deposited corn with the Burt Grain Co., warehouse receipts were issued by Burt Grain Co. to Commodity Credit. According to the figures of the Government, Commodity Credit had on deposit with Burt Grain Co. at Clarion, in October of 1950, 295,096.92 bushels of corn and this amount increased somewhat each month until December of 1951 when the amount on deposit at Clarion was 317,277.50 bushels according to the Government's claim. The Government also claims that it stored in the Burt Grain Co. warehouse at Galt between July 1, 1950, and December 19, 1951, 99,897.72 bushels of corn. According to the figures of the Iowa State Commerce Commission, the amount of corn on deposit at Clarion, Iowa, on December 10, 1951, was 317,071 bushels and at Galt, Iowa, 136,651 bushels. It is sufficient for the purpose of this statement to summarize by saying that between October of 1950 and January 1, 1952, the Government claims to have had on deposit with the Burt Grain Co. at the two locations, Clarion and Galt, more than 400,000 bushels of corn.

In January of 1952, Commodity Credit ordered Burt Grain Co. to ship the corn and at, or about, that time delivered its warehouse receipts to Burt Grain Co. At the conclusion of the shipping and in the final checkup, apparently Burt Grain Co. was short the 151,514.35 bushels for which the Government now claims Stratton Grain Co. is liable. The Government took mortgages on the property of the owners of Burt Grain Co., and the best information available is that the Government took judgment against these owners for its claims totaling \$397,942.50 plus interest of \$29,292.56, or a total of \$427,235.06.

Apparently the owners of Burt Grain Co. did not have assets of a value in excess of \$100,000, even including the \$55,000 bond which was furnished by Burt Grain Co. as warehousemen.

During the period from October of 1950 to April of 1952, this being the period covered by the complaint, Stratton Grain Co. purchased or had consigned to it from Burt Grain Co. approximately 258,000 bushels of corn. During this same period Burt Grain Co. itself purchased from farmers in that area approximately 556,000 bushels of corn and during that same period, including that shipped to Stratton Grain Co., Burt Grain Co. shipped, in its regular course of business, approximately 517,000 bushels of corn. These transactions occurred in the ordinary course of business and the purchases were made in carload lots and Stratton Grain Co. paid Burt Grain Co. for all of the corn. There is no claim that Stratton Grain Co. was anything other than an innocent purchaser. Stratton Grain Co. has not even now been informed precisely what corn it is claimed it purchased which belonged to the Government.

It is submitted that if Stratton Grain Co. in this instance is liable to the Gov-

ernment for \$283,745.83 because of grain transactions in which it was at all times an innocent purchaser for value, it will mean that persons and firms who buy grain, including brokers, merchandisers, commission men and processors will simply have to cease doing business with any grain dealer or elevator which stores Commodity Credit grain. The compensation received by any dealer is simply not adequate to justify assuming the enormous and devastating risks involved in purchasing innocently, from regular grain elevators, grain which it may later develop belongs to Commodity Credit Corporation.

With the Commodity Credit Corporation having millions of bushels of grain stored with country elevators which are also engaged in the business of buying and selling grain in the open market, innocent purchasers from such elevators are exposed to the constant risk of purchasing grain owned by Commodity Credit Corporation.

The Commodity Credit Corporation is not limiting its attempts to recover grain lost from storage facilities to lawsuits against grain dealers. It is attempting to follow specific grain into the hands of local dealers who purchased for value in good faith and without notice. In support of this statement, there is attached hereto a copy of a letter from the United States attorney for the northern district of Indiana, dated November 18, 1953, addressed to Fowler Grain Dealers, Inc., Fowler, Ind. According to this letter, Fowler Grain Dealers, Inc., purchased a car of corn consisting of 1,777.86 bushels on the open market from a commission firm in Chicago who sold it for the Spellman Feed & Grain Co., of Rochelle, Ill. According to the letter, the Spellman Feed & Grain Co. had outstanding to Commodity Credit Corporation warehouse receipts calling for 163,000 bushels of corn. The letter from the United States attorney makes demand on Fowler Grain Dealers, Inc., the purchaser of this car, for the market value thereof on the theory that at no time during the period between September 21, 1949 and July 12, 1951, during which time the car of corn was purchased, did the Spellman Feed & Grain Co. have enough corn on hand to satisfy the warehouse receipts issued to Commodity Credit Corporation. Accordingly, the United States attorney makes formal demand on the purchaser for \$2,177.57, that being the market value of the corn on the date the customer purchased it.

If transactions such as have been outlined herein can result in liability on the part of innocent purchasers for the value of grain which happens to have been purchased from a warehouseman for Commodity Credit Corporation who is also actively engaged in the grain business, then it will result in complete demoralization of the open grain market.

UNITED STATES
DEPARTMENT OF JUSTICE,
UNITED STATES ATTORNEY,
NORTHERN DISTRICT OF INDIANA,
Fort Wayne, Ind., November 18, 1953.
FOWLER GRAIN DEALERS, INC.,
Fowler, Ind.

DEAR SIR: Commodity Credit Corporation, an agency and instrumentality of the United

States, within the Department of Agriculture, has referred its claim against you for the value of CCC-owned corn purchased by you from the Spellman Feed & Grain Co., of Rochelle, Ill., to this office for action to effect collection.

It appears from an investigation by the Department of Agriculture that you purchased 1,777.86 bushels of corn, valued at \$2,177.57, from the Spellman Feed & Grain Co. during the period September 21, 1949 to July 12, 1951. During the same period of time, the Spellman Feed & Grain Co. was obligated by outstanding warehouse receipts to hold certain quantities of corn aggregating approximately 163,000 bushels for the account of Commodity Credit Corporation, and since at no time during the period mentioned above did the Spellman Feed & Grain Co. maintain in store a sufficient quantity of corn to satisfy the warehouse receipts which it had issued to Commodity Credit Corporation, the Government contends that you converted to your own use the above quantity of corn which was, at the time you purchased it, the property of Commodity Credit Corporation.

Accordingly, demand is hereby made upon you for the return of 1,777.86 bushels of corn or payment to the Government of the above-mentioned sum of \$2,177.57, which represents the total market value of the corn at Rochelle, Ill., on the date or dates of your purchases. Payment may be made to this office by certified or cashier's check drawn to the order of the Treasurer of the United States.

In the event you have any question regarding the Government's claim, or desire further details regarding the matter, please contact this office immediately.

Yours very truly,

JOSEPH H. LESH,

United States Attorney.

By PHIL M. McNAGNY, Jr.,

Assistant United States Attorney.

Mr. Speaker, this bill should be enacted for the benefit and protection of all innocent purchasers of grain for value and without notice.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070), is hereby amended by adding at the end thereof the following new section:

"SEC. 19. Release of innocent purchasers of converted goods: A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman who was also in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the warehouseman to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the warehouseman's authority to sell such goods."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the eligible bills in the Consent Calendar.

PRIVATE CALENDAR

The SPEAKER pro tempore. Under previous order of the House, the Private

Calendar will be called. The Clerk will call the first individual bill on the Private Calendar.

ATSUKO KIYOTA SZEKERES

The Clerk called the bill (H. R. 1206) to restore United States citizenship to a former citizen, Atsuko Kiyota Szekeres, who has expatriated herself.

Mr. WALTER. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MRS. CONCETTA SACCATTI SALLIANI

The Clerk called the bill (H. R. 872) for the relief of Mrs. Concetta Saccatti Salliani.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the time limitation of 1 year contained in the second proviso of section 349 (a) (1) of the Immigration and Nationality Act, Mrs. Concetta Saccatti Salliani may, within 6 months after the date of enactment of this act, apply for a visa and be admitted to the United States in accordance with the provisions of sections 349 (a) (1) and 101 (a) (27) (E) of the Immigration and Nationality Act (other than such 1-year time limitation), if she is found to be otherwise admissible under the provisions of such act.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

MRS. MOUNIRA E. MEDLEJ

The Clerk called the bill (H. R. 886) for the relief of Mrs. Mounira E. Medlej.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Mrs. Mounira E. Medlej shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. ELSA DANES

The Clerk called the bill (H. R. 888) for the relief of Mrs. Elsa Danes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Mrs. Elsa Danes shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such

alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ELISEO FELIX HERNANDEZ

The Clerk called the bill (H. R. 890) for the relief of Eliseo Felix Hernandez.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (19) of the Immigration and Nationality Act, Eliseo Felix Hernandez may be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice have knowledge prior to the enactment of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALBERTO CORTEZ CORTEZ

The Clerk called the bill (H. R. 891) for the relief of Alberto Cortez Cortez.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (19) of the Immigration and Nationality Act, Alberto Cortez Cortez may be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice have knowledge prior to the enactment of this act.

With the following committee amendments:

On page 1, line 3, strike out the word "provision" and substitute the word "provisions."

On page 1, line 3, after "section 212 (a)" insert "(17) and."

On page 1, line 9, strike out the word "have" and substitute the word "had."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GLORIA MINOZA MEDELLIN

The Clerk called the bill (H. R. 911) for the relief of Gloria Minoza Madellin.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Gloria Minoza Medellin shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HILDEGARD NOBLE

The Clerk called the bill (H. R. 913) for the relief of Hildegard Noble.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That Hildegard Noble, who lost United States citizenship under the provisions of section 404 (b) of the Nationality Act of 1940, may be naturalized by taking, prior to 1 year after the date of enactment of this act, before any court referred to in subsection (a) of section 310 of the Immigration and Nationality Act, or before any diplomatic or consular officer of the United States abroad, an oath as prescribed by section 337 of such act. From and after naturalization under this act the said Hildegard Noble shall have the same citizenship status as that which existed immediately prior to its loss.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHIA-TSENG CHEN

The Clerk called the bill (H. R. 921) for the relief of Chia-Tseng Chen.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Chia-Tseng Chen shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSEPH MARRALI

The Clerk called the bill (H. R. 924) for the relief of Joseph Marrali.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Joseph Marrali shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANNA TOKATLIAN GULEZIAN

The Clerk called the bill (H. R. 1081) for the relief of Anna Tokatlian Gulezian.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act,

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

May 5, 1955
May 4, 1955
84th-1st, No. 73

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HIGHLIGHTS: House debated price support bill, agreeing to amendment making peanuts nonbasic. House committee reported bill for Federal cooperation in non-Federal reclamation projects. House subcommittee approved measure for USDA study of burley tobacco program. Senate passed trade agreements bill. Senate made Interior appropriation bill, which includes FS items, its pending business. Senate committee reported bills to give CEA subpoena power and protect purchasers of fungible goods from CCC claims.

HOUSE

1. PRICE SUPPORTS. Continued debate on H. R. 12, the price support bill (pp. 4699-725, A2986-7). By a teller vote of 186-150, agreed to an amendment by Rep. Green, Pa., to eliminate peanuts from the list of basic commodities and to repeal legislation for peanut allotments (pp. 4699-713).
2. RECLAMATION; LOANS. The Interior and Insular Affairs Committee reported without amendment H. R. 5881, to supplement the Federal reclamation laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects (H. Rept. 481)(p. 4727).
3. SALT-WATER RESEARCH. The Rules Committee reported a resolution for consideration of H. R. 2126, to expand the Interior Department's salt-water research program (p. 4699).
4. TOBACCO. A subcommittee approved for reporting to the Agriculture Committee S. J. Res. 60, directing USDA to study and report on burley tobacco controls (p. D374).
5. COPPER IMPORTS. The Ways and Means Committee reported without amendment H. R. 5695, to continue through June 1958 the suspension of certain import taxes on copper (H. Rept. 485)(p. 4727).

6. REORGANIZATION. The Government Operations Committee reported without amendment S. 1763, to extend the time for liquidation of the Hoover Commission (H. Rept. 482)(p. 4727).
7. PURCHASING. The Government Operations Committee submitted a report, "Federal Catalog Program Report — Identification and Conversion" (H.Rept.483)(p.4727).
8. PROPERTY AND ADMINISTRATIVE SERVICES. Received from GSA a proposed bill "to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes"; to Government Operations Committee (p. 4727).
9. LEGISLATIVE PROGRAM. Majority Leader McCormack announced the legislative program as follows: Today (Thurs.), price-support and reserve-manpower bills; Fri. and Sat., not in session; Mon., conference report on postal pay bill, and statehood bill (p. 4725).

SENATE

10. TRADE AGREEMENTS. Passed, 75-13, with amendments H. R. 1, to extend to June 30, 1958 the authority of the President to enter into trade agreements (pp. 4732-4851). Sens. Byrd, George, Gore, Millikin, and Martin were appointed Senate conferees on this bill (pp. 4850-1).

During debate on this bill Sen. Langer stated that the Trade Agreements Act "has proved disastrous to the farmers of the Nation"; that his reasons for voting against extension of this Act are set forth in the hearings held before the Subcommittee on Antitrust and Monopoly, Senate Judiciary Committee, on importations of rye and barley; and inserted the transcript of these hearings (pp. 4826-50).

Sen. Malone discussed and inserted a GATT nations' "Decision to Grant a Waiver to the U. S. in Connection with Import Restrictions Imposed Under Section 22 of the U. S. Agricultural Adjustment Act of 1933, as Amended" (pp. 4747-8).
11. INTERIOR AND RELATED AGENCIES APPROPRIATION BILL FOR 1956. This bill, H. R. 5085, was made the pending business (pp. 4851, 4853).
- ~~12. COMMODITY EXCHANGES; CCC CLAIMS. The Agriculture and Forestry Committee reported without amendment S. 1398, to authorize subpoenas under the Commodity Exchange Act (S. Rept. 268); and with amendment H. R. 1831, to amend the CCC Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the CCC (S. Rept. 270) (p. 4730).~~
13. ANIMAL DISEASE. The Agriculture and Forestry Committee reported without amendment S. 1133, to provide for certain indemnity payments in Iowa on account of vesicular exanthema which could not be made because of a technicality (p. 4730).
14. COMMITTEES. The chairman, Agriculture and Forestry Committee, was authorized to appoint subcommittees to consider the following bills: S. 1286, Farm Credit Act of 1955; S. 1636, use of humane methods in slaughter of livestock and poultry in interstate or foreign commerce; and S. J. Res. 20, to preserve and strengthen the family-farm pattern of American agriculture (p. D372).
15. ROADS; TREATIES. Received resolutions urging enactment of legislation for the rapid completion of the Interstate System of Highways, and favoring the enactment of the Bricker amendment to limit the President's treaty-making power (p. 4729).

INNOCENT PURCHASERS OF CONVERTED FUNGIBLE
GOODS

MAY 4 (legislative day, MAY 2), 1955.—Ordered to be printed

Mr. HOLLAND, from the Committee on Agriculture and Forestry,
submitted the following

R E P O R T

[To accompany H. R. 1831]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill, with the committee amendments, would relieve innocent purchasers of fungible goods from claims of the Commodity Credit Corporation for conversion, where the purchase was made for value in good faith and in the ordinary course of business from a person regularly engaged in buying and selling such goods. Your committee held hearings on the bill and found it to be favored by the Department of Agriculture, the industry, farm groups, and all other witnesses who appeared or submitted statements.

The committee amendments would enlarge the bill to accomplish two purposes: First, instead of limiting the bill to goods sold by a warehouseman who was also a dealer, they would make it applicable to goods sold by any dealer regularly engaged in buying and selling such goods, provided, of course, that the purchase of such goods was otherwise within the provisions of the bill. There is no way in which a purchaser can assure himself that goods have not at sometime previous been sold by a warehouseman not engaged in the business of buying and selling such goods. Your committee thought, therefore, that a purchaser ought to be protected if he could show that his own purchase was made for value and in good faith from a regular dealer and was otherwise within the provisions of the bill. Second, the committee amendments would make it clear that the purchaser has the burden of proving the facts necessary to entitle him to a defense under the bill.

This bill applies to existing as well as future claims. According to the attached report from the Department, existing claims against grain purchasers approximate \$3½ million.

The committee amendments and the bill are more fully explained in the attached letter from the General Counsel and the attached report of the House Committee on Agriculture.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington 25, D. C., May 3, 1955.

HON. SPESSARD L. HOLLAND,
Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR HOLLAND: This letter responds to your request at the hearing before your subcommittee on May 2, 1955, on a number of Senate bills and on H. R. 1831, to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of Commodity Credit Corporation, for a statement concerning the applicability of such bills to innocent purchasers other than those buying directly from warehousemen.

You and Senator Williams indicated that the relief afforded by the bill should not be limited to an innocent purchaser from a warehouseman but should be extended to cover any innocent purchaser in the usual course of business from any regular dealer, whether or not he is also a warehouseman. You also expressed the view that such a purchaser should be required to show only his good faith and that he bought the grain for value in the ordinary course of business from a regular dealer and that he should not have any burden of proof with respect to prior transactions in the chain of title.

The report of the House Committee on Agriculture on H. R. 1831 (H. Rept. No. 154, 84th Cong., 1st sess.) indicates the understanding of the House that the relief afforded the innocent purchaser from a warehouseman also extends to anyone subsequently acquiring the goods through such a purchaser. The statement in the House report, at page 4, is as follows:

"Although they are not mentioned in the bill, the provisions of this measure will, of course, also protect those who have bought some of the converted grain from an innocent purchaser—such as a farmer who has bought grain from a feed dealer. The defense available to the innocent purchaser is a protection to all who took title to any of the goods through him."

The coverage of the bill can be broadened to cover the situations referred to in the hearing by modifying the bill to read as follows (new matter is italicized and words deleted are enclosed in brackets):

A BILL To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods [converted by warehousemen] from claims of the Commodity Credit Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070), is hereby amended by adding at the end thereof the following new section:

"SEC. 19. RELEASE OF INNOCENT PURCHASERS OF CONVERTED GOODS.—A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman or other dealer who was [also] regularly engaged in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the [warehouseman] seller to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the [warehouseman's] seller's authority to sell such goods. *To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief.*"

The last sentence is included because of questions raised during debate in the House. We believe, however, that this adds nothing new to the bill but merely reaffirms what the bill already requires.

It is believed that the terminology "warehouseman or other dealer who was regularly engaged in the business of buying and selling such goods," covers all types of dealers—including, among others, commission merchants and processors who also buy and sell unprocessed commodities—from whom a purchaser might buy fungible goods in the open market and in the regular course of business. The terminology would not include, however, a trucker or farmer who might acquire and sell grain as an incident to his regular business of trucking or farming but who is not "regularly engaged in the business of buying and selling" grain.

The change would broaden the proposed legislation by establishing a complete "market overt" with respect to fungible goods purchased in the regular course of business from firms which are regularly engaged in the business of buying and selling such goods, insofar as claims of Commodity Credit Corporation are concerned. While this change would have the effect of enabling a regular dealer to pass to an innocent purchaser good title to grain stolen from Commodity Credit Corporation or grain covered by a chattel mortgage to it, the Corporation would still be free to recover from the thief or converter and, if he was not a regular dealer, the Corporation could also recover from his purchaser.

The foregoing change is consistent with the Uniform Commercial Code. In addition to section 7-205, which covers purchases of fungible goods from a warehouseman, the code extends the "market overt" principle to sales of goods generally. Section 2-403 provides that "Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him the power to transfer all rights of the entruster to a buyer in the ordinary course of business."

This Department would have no objection to modification of the proposed legislation as outlined herein if your committee believes that such action would more effectively accomplish the purpose for which the legislation was intended. In view of your expressed desire to expedite consideration of the legislation by the committee, this letter has not been submitted for clearance by the Bureau of the Budget.

Sincerely yours,

R. L. FARRINGTON,
General Counsel.

[H. Rept. No. 154, 84th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The purpose of this bill is to provide innocent purchasers of grain or other fungible goods with an equitable defense in cases where such goods owned by the Commodity Credit Corporation are sold by warehousemen without authority and the Corporation, unable to recover from the wrongdoer and his surety, takes action to collect from those who purchased the goods unaware that the warehouseman had no right to sell them.

Fungible goods are goods, such as grain, which are normally intermingled in the ordinary processes of commerce so that the identity of specific lots is lost and the obligation to deliver may be fully discharged by delivery of a specified quantity and quality of the commodity. Wheat stored in an elevator or terminal warehouse by several owners, for example, is normally intermingled in the bins so that the identity of the several ownerships is lost and the owners neither expect nor are entitled to receive back the same wheat they put into storage, but only wheat of the same quantity and quality.

EXISTING LAW

Under the existing law in this country, the holders of warehouse receipts issued against fungible goods, such as grain, stored in a warehouse in a common mass are coowners of the goods to the extent necessary to satisfy their receipts. Where a warehouseman wrongfully sells grain belonging to receipt holders, the receipt holder may recover from the purchaser the fair market value of the grain, even though such purchaser was innocent of any knowledge that the warehouseman had no right to sell the grain, had purchased the grain from the warehouseman as

a grain dealer in the usual course of business, and could not in fact have determined the ownership of the grain had he tried to do so.

The harshness of this strict application of the rule of "caveat emptor" has long been criticized by courts and lawyers, who have recognized the inequity of forcing an innocent purchaser to pay twice for the goods—first to the wrongdoing seller and again to the rightful owner. As a strict matter of law, the true owner can follow the goods even beyond the first innocent purchaser and recover its value from anyone to whom the innocent purchaser sold the goods, if he cannot satisfy his claim otherwise. For example: The operator of a country feed store orders a carload of grain from a dealer in the usual course of business, accepts delivery, pays for the grain, puts it into bags, and sells it to nearby farmers for feed. Later it develops that the grain belonged to the Commodity Credit Corporation, which had stored it with the grain dealer, and that the dealer had no authority to sell it. The Corporation must look first to the wrongdoer and his surety for payment of the value of the grain but if it cannot recover from them, the law holds the feed store operator liable. Even though he had no way of knowing that the grain he bought in the usual course of business was not the dealer's to sell, the rule of "caveat emptor" is that the purchaser, no matter how innocent of wrongdoing can obtain no better title than the seller had to convey. If the feed dealer, too, were unable to satisfy the claim of the Corporation, that claim could then be brought even against the farmer who purchased the grain from the feed dealer.

APPLICATION OF THE RULE

Because of the harshness of this rule of law, courts have been sympathetic to equitable defenses against such claims on behalf of innocent purchasers (that action of the rightful owner clothed the warehouseman with "apparent title," that prudent action by the owner could have prevented the fraudulent sale, etc.).

The purpose of this bill is to make a specific equitable defense available to the innocent purchasers of converted CCC grain or other fungible goods described in the bill.

As a result of the rather widespread conversion of CCC stored grain which was brought to light a few years ago, a large number of innocent purchasers of that grain are now being sued or are threatened with suit to satisfy those claims. As of January 1, 1955, the Department of Agriculture had referred to the Department of Justice 268 warehouse shortage cases involving grain and other fungible commodities. In some 37 of these cases the amounts which may be recovered from the warehousemen and their sureties are inefficient to cover the value of the commodities wrongfully sold by the warehousemen. There are 496 known purchasers from these 37 warehousemen and suits in Federal courts have been filed by the Department of Justice against 136 of them. If these purchasers had any part in, or knowledge of, wrongdoing of the warehousemen they should, of course, be held fully liable for their action. But if they were in fact innocent purchasers within the terms of this bill, they should have available to them the equitable defense provided by the bill.

UNIFORM COMMERCIAL CODE

Even before the developments resulting from the CCC grain-conversion cases, representatives of the American bar and bench had recommended for general adoption a law similar to that which this bill would apply only to claims of the Commodity Credit Corporation. In the Uniform Commercial Code (the text edition of which was published in 1951) the American Law Institute and the National Conference of Commissioners on Uniform State Laws, with the approval of the house of delegates of the American Bar Association, recommended for adoption by State legislatures, as part of that Uniform Code, the following provision:

"SECTION 7-205. (1) A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated."

There are several points of difference between the bill herewith reported and the recommended statute referred to above (which has been enacted into law in two States and recommended for adoption in several others):

1. The bill applies only to claims of the Commodity Credit Corporation and not to those of any other owner of fungible goods, even though he might be similarly situated.

2. The bill relates only to claims "based on the want of authority in the warehouseman to sell such goods." It will have no effect on the rights or liabilities of the parties with respect to any other type of claims, such as, for example: A claim based on failure of the purchaser to pay for the goods.

3. The provision in the recommended Uniform Commercial Code would relate apparently only to claims arising after its enactment in the State of jurisdiction. The provisions of the bill reported herewith are, on the other hand, intentionally made retroactive so as to afford relief to innocent purchasers who have been made subject to CCC claims by the grain-conversion cases heretofore referred to.

4. The bill requires that the goods be "physically" delivered. This is to make entirely clear (as is apparently implied by the recommended code provision) that the provisions of the bill are to apply only in the case of actual grain purchase and delivery, and not in the case of overissued warehouse receipts.

5. The bill is somewhat more explicit in spelling out a definition of an innocent purchaser.

DETAILS OF THE BILL

A number of interesting points with respect to the bill, which might not be readily apparent to those outside the legal profession, were brought out during the course of the public hearing on the bill. Among them were:

1. The word "also" refers only to the warehouseman. It means that the seller must have been not only a storer of the goods but "also in the business of buying and selling such goods" so that his offer to sell would not be an unusual matter but one "in the ordinary course of business."

2. There are several specific limitations on who is to be considered an innocent purchaser and eligible to take advantage of the defense afforded by the bill. He must have (a) purchased the goods "in the ordinary course of business" (b) from a warehouseman "in the business of buying and selling such goods" and (c) have received "physical" delivery; (d) the purchase must have been "for value" and (e) in "good faith" with (f) no knowledge whatever on the part of the buyer of any lack of authority on the part of the seller to sell the goods and (g) not even suspicious or unusual circumstances which would give him reason to doubt the seller's authority.

3. The meaning of the words "for value" may differ in various jurisdictions according to different State laws but the meaning within each jurisdiction is so well understood and so well established by court decision that there should be no difficulty in its application to individual cases.

4. Although they are not mentioned in the bill, the provisions of this measure will, of course, also protect those who have bought some of the converted grain from an innocent purchaser—such as a farmer who has bought grain from a feed dealer. The defense available to the innocent purchaser is a protection to all who took title to any of the goods through him.

DEPARTMENT REPORT AND OTHER STATEMENTS

Because of the rather technical nature of the subject matter of this bill and the fact that it would set aside, as to specified claims of the Commodity Credit Corporation, certain long established rules of American law, the committee feels it desirable to present in this report a substantial portion of the evidence on which it based its decision to report this bill favorably to the House. Accordingly, there are set out below (1) the letter from the Department of Agriculture recommending enactment of the measure; (2) the discussion of facts and law relating to the subject matter of the bill which accompanied the Department's letter; (3) the relevant and material portions of the statements of the Solicitor of the Department of Agriculture, and the general counsel of the Miller's National Federation.

FEBRUARY 28, 1955.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your request for reports on H. R. 694 and H. R. 1831, identical bills to amend the Commodity Credit Cor-

poration Charter Act in order to relieve innocent purchasers of fungible goods converted by warehousemen from claims of Commodity Credit Corporation.

This Department recommends the passage of the proposed legislation.

In connection with the conversions of Commodity Credit Corporation grain and other fungible commodities by warehousemen, which occurred a few years ago, present estimates of the amounts recoverable from the warehousemen and their sureties indicate that persons who purchased such grain are subject to claims by the Corporation approximating \$3½ million. The proposed legislation would relieve from liability to the Corporation innocent purchasers who bought and received physical delivery of fungible goods in the ordinary course of business from warehousemen who were also in the business of buying and selling such goods provided the buyer purchased them for value in good faith and neither knew nor had reason to know that the warehousemen had no right to sell such goods. This legislation would apply also to any like situations occurring in the future. This Department, of course, has taken steps to minimize the possibility of future occurrences of this type.

Under the existing rule of court decisions in this country, an owner of fungible goods, such as grain, wrongfully sold by a warehouseman can recover from a wholly innocent purchaser of such goods. This rule has been criticized for many years by lawyers and judges who have recognized the harshness and inequity in forcing an innocent purchaser who buys fungible goods in good faith in the normal course of business from a dealer in such goods, to pay for them twice—first to the wrongdoing seller and again to the true owner. The critics of the rule have pointed out, also, that it disrupts normal trading in grain and other fungible goods because a prospective purchaser never knows whether a warehouse receipt holder might later assert a claim to the goods he bought. This point has become a major problem for grain dealers and the Government alike in recent years because of the large-scale storage operations of Commodity Credit Corporation since World War II. Never before in the history of grain warehousing in this country has a single owner had such large quantities of grain stored in so many warehouses in all parts of the country for such long periods of time. Although inspections of warehouses are made periodically by Federal and State officials, the only way a purchaser can be certain that he is safe in buying grain from a warehouseman is to measure the stocks of grain in the warehouse and examine his records of outstanding warehouse receipts at the time of each purchase, which obviously is an impossible task.

In recognition of the need for a change in the rule of law in this country, there has been proposed for adoption by the Congress of the United States and the legislatures of the several States a modern, complete code of laws governing commercial transactions, known as the Uniform Commercial Code. This code represents the work of scores of experienced lawyers and judges over a period of several years and has been approved by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association. The Uniform Commercial Code provides, in subsection (1) of section 7-205, that "A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated." These bills apply the principle of the Uniform Commercial Code to fungible commodities of Commodity Credit Corporation.

Each of the bills which you have submitted to this Department contains a proviso expressly requiring that the buyer must have purchased the goods for value and in good faith, without knowledge of any defect in the warehouseman's authority to sell the goods. The proviso makes clear the class of persons entitled to the benefits of the legislation and appears to place upon any person claiming such benefits the burden of asserting and proving his claim as an affirmative defense. The purchaser is, of course, in a better position than the Government to know the facts with respect to his purchases.

Enclosed is a statement with exhibits, containing a comprehensive discussion of the facts and law with respect to Commodity Credit Corporation claims against purchasers of grain and other fungible commodities.

No increase in the administrative expenses of this Department would result from passage of this legislation.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

DISCUSSION OF FACTS AND LAW WITH RESPECT TO CLAIMS OF COMMODITY CREDIT CORPORATION AGAINST GRAIN PURCHASERS

As of January 1, 1955, the Department of Agriculture has referred to the Department of Justice 268 warehouse shortage cases involving grain and other fungible commodities owned by or pledged to Commodity Credit Corporation.¹ Of these 268 cases, in some 37 cases, involving 496 known purchasers,² the amounts which may be recovered from the warehousemen and their sureties are insufficient to cover the value of the commodities wrongfully sold by warehousemen. Therefore, any further recoveries by the Government must be made from the purchasers. After giving credit for amounts recovered and anticipated recoveries from warehousemen and their sureties, the aggregate potential liability of these purchasers is estimated to be \$3½ million. In 12 of such 37 warehouse cases, a total of 56 separate suits against 136 purchaser-defendants have been filed by the Department of Justice. The suits involve 13 separate judicial districts.

The attached exhibit A contains pertinent information with respect to the 37 warehouse cases in which recoveries from the warehouseman and their sureties will be insufficient to cover the Government's losses and the 4 closed warehouse cases in which the claims against purchasers have been settled.

Exhibit B contains detailed data with respect to the warehouse cases in which suits have been filed against purchasers.

Extensive supplementary investigations and time-consuming calculations are necessary after cases are referred to the Department of Justice to develop the facts necessary to file suits against purchasers. Because of the many sales and replacements of stocks by the warehousemen over extended periods of time and the interest of receipt holders other than Commodity Credit Corporation, these cases usually require the development of complete daily inventory information on all shipments and receipts. Since fungible goods, such as grain, are stored on a commingled basis, no depositor can trace his ownership to any particular goods stored or sold by the warehouseman. Thus, obtaining the evidence necessary to prove claims against numerous purchasers and allocating liability among them is a complex matter.

Under the existing law in this country, the holders of warehouse receipts issued against fungible goods, such as grain, stored in a warehouse in a common mass are coowners of the goods to the extent necessary to satisfy their receipts.³ Where a warehouseman sells grain belonging to receipt holders they may recover from the purchasers the fair market value of the grain, even though such purchasers were innocent of any knowledge that the warehouseman had no right to sell the grain.⁴

If the warehouseman, after selling grain belonging to receipt holders, purchases other grain and stores it in the warehouse, the receipt holders become coowners of the replacement grain, as well as any previously stored grain remaining in

¹ Total recoveries in these 268 cases to date amount to upward of \$6½ million, leaving uncollected almost \$6¾ million, based on book value of the missing commodities. Substantial additional sums will be realized from pending bankruptcy and receivership proceedings. The aggregate of claims made against warehousemen and their sureties exceeds the book-value amount because, wherever the facts warrant, the claims are based on the willful converter's liability for the highest market value between the date of the conversion and a reasonable time after the Corporation received notice of the conversion. All of these 268 cases, however, do not involve civil claims since in many cases the warehouseman has satisfied his civil liability by delivery of commodities or payment for any shortage on load out. The cases where the warehouseman's civil liability was satisfied were referred to the Department of Justice because they involved possible violations of Federal criminal statutes.

² As shown in exhibit A, in 4 additional warehouse cases which are now closed, the claims against purchasers have been settled; in 3 of the 4 cases purchasers contributed to the overall settlement made by the warehouseman and his sureties after the filing of suit against all, and in the remaining case, the purchaser, after demand, paid the amount of the claim made against him by the Department of Justice.

³ *Dowes v. Elkstone*, 3 Fed. 19 (D. Minn., 1880); *Sexton v. Graham*, 4 N. W. 1090 (Iowa, 1880); *Goodman v. Northcutt*, 13 Pac. 485 (Oreg., 1887); *Herrick v. Barnes*, 81 N. W. 526 (Minn., 1900); *Hall v. Pillsbury*, 44 N. W. 673 (Minn., 1890); *Kastner v. Andrews*, 194 N. W. 824 (N. D., 1923); *Carson State Bank v. Grant Grain Co.*, 197 N. W. 146 (N. D., 1924); *Wallace v. State*, 183 N. E. 29 (Ind., 1932); *Krume v. Farmers' Cooperative Elevator Co.*, 262 N. W. 242 (N. D., 1935).

⁴ Some of the cases illustrating this rule are: *Hall v. Pillsbury*, *supra*; *Carson State Bank v. Grant Grain Co.*, *supra*; *Herrick v. Barnes*, *supra*; *Kastner v. Andrews*, *supra*; *Tobin v. Portland Flouring Mills Co.*, 68 P. 743 (Oreg., 1902); *Torgerson v. Quinn-Shepherdson*, 201 N. W. 615 (Minn., 1925); *Board of Railroad Commissioners v. Hooper Grain Co.*, 248 N. W. 275 (N. D., 1933); *Mitchell v. Munn Warehouse Co.*, 86 P. 241 174 (Idaho, 1938); *Kimball Milling v. Greene*, 170 S. W. 2d 191 (Tex., 1943). But cf. *Preston v. Witherspoon*, 9 N. E. 585 (Ind., 1886) (equitable estoppel). With the exception of *Preston v. Witherspoon*, *supra*, the decisions in the foregoing cases are based on the common law rule that a purchaser of property from a converter or thief gets no better title than the vendor and that the true owner may recover from the purchaser, even though he be innocent of wrongdoing, either the property or its fair market value at the time and place of purchase. *Dowes v. National Exchange Bank*, 91 U. S. 618, 637 (1875); *Bolles Wooden Ware Co. v. United States*, 106 U. S. 432 (1882); *Potter v. United States*, 122 Fed. 49 (C. A. 8, 1903); *Union Naval Stores Co. v. United States*, 202 Fed. 491 (C. A. 5, 1913); *aff.* 240 U. S. 284; *Whitehurst v. United States*, 272 Fed. 46 (C. A. 4, 1921); *First Camden National Bank and Trust Co. v. J. R. Watkins Co.*, 122 F. 2d 826 (C. A. 3, 1941); see also 44 A. L. R. 1326, 80 A. L. R. 613; Restatement, Torts, § 229.

the warehouse, to the extent necessary to satisfy their receipts.⁵ The purchasers of converted grain from the warehouseman are entitled to be credited with any such replacement grain subsequently acquired by the warehouseman⁶ and with the amounts of any recoveries by the receipt holders from the warehouseman and his surety.⁷

Although the holders of unsatisfied warehouse receipts may recover from innocent purchasers of their grain, court decisions indicate that the warehouseman's surety, upon payment of his obligations to the receipt holders under the warehouseman's bond would not be subrogated to their rights against the innocent purchasers.⁸ The surety would appear to have a right of subrogation, however, against a purchaser chargeable with notice of the conversion at the time of his purchase.⁹

Although the law in this country permits receipt holders to recover from purchasers of goods wrongfully sold by a warehouseman without regard to the innocence or guilt of the purchaser, the rule in England, from whom this country inherited its common-law system, is different. Under the ancient English rule of "market overt", which was embodied in section 22 of the English Sale of Goods Act, where goods are sold by a regular dealer in the open market, "the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of any defect or want of title on the part of the seller." While the principle of market overt has never been recognized as a part of the common law adopted by this country, the American rule has been criticized for many years by lawyers and judges who have recognized the harshness and inequity of forcing an innocent purchaser of goods to pay for them twice—first to a wrongdoing seller and secondly to the true owner. The critics of the rule have pointed out, also, that it disrupts the normal trading in grain and other fungible goods because a prospective purchaser never knows whether a warehouse receipt holder might later assert a claim to the goods he bought. This point has become a major problem for grain dealers and the Government alike in recent years because of the large scale storage operations of Commodity Credit Corporation since World War II. Never before in the history of grain warehousing in this country has a single owner of grain had such large quantities stored in so many warehouses in all parts of the country for such long periods of time. Although inspections of warehouses are made periodically by Federal and State officials, the only way a purchaser can be certain that he is safe in buying grain from a warehouseman is to measure the stocks of grain in the warehouse and examine his records of outstanding warehouse receipts at the time of each purchase, which obviously is an impossible task.

In recognition of the need for a change in the rule in this country, the American Law Institute and the National Conference of Commissioners on Uniform State Laws, in the proposed new Uniform Commercial Code, have provided, in subsection (1) of section 7-205, that—

"A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated."¹⁰

The Uniform Commercial Code extends the same principle to sales of goods generally. Subsections (2) and (3) of section 2-403 provide as follows:

"(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him the power to transfer all rights of the entruster to a buyer in the ordinary course of business.

"(3) 'Entrusting' includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or

⁵ *Sexton v. Graham*, 4 N. W. 1090 (Iowa, 1880) *Heuther v. McCaull-Dinsmore Co.*, 204 N. W. 614 (N. D., 1925); *State v. Farmers' Elevator Co.*, 231 N. W. 725 (N. D., 1930).

⁶ *Heuther v. McCaull-Dinsmore Co.*, *supra*; *State v. Farmers' Elevator Co.*, *supra*.

⁷ *Northern Trust Co. v. Consolidated Elevator Co.*, 171 N. W. 265, 4 A. L. R. 510 (Minn., 1919).

⁸ *Northern Trust Co. v. Consolidated Elevator Co.*, *supra*; *American Surety Co. v. Lewis State Bank*, 58 F. 2d 559 (C. A. 5, 1932).

⁹ See *National Surety Co. v. Arosin*, 198 F. 605, 609 (C. A. 8, 1912).

¹⁰ The following comment appears on page 570 in the 1952 text and comments edition of the Uniform Commercial Code:

"1. The typical case covered by subsection (1) is that of the warehouseman-dealer in grain, and the substantive question at issue is whether in case the warehouseman becomes insolvent the receipt holders shall be able to trace and recover grain shipped to and paid for by farmers and other purchasers from the elevator. This was possible under the old acts, although courts were eager to find estoppels to prevent it. The practical difficulty of tracing fungible grain means that the preservation of this theoretical right adds little to the commercial acceptability of negotiable grain receipts, which really circulate on the credit of the warehouseman. Moreover, on default of the warehouseman, the receipt holders at least share in what grain remains, whereas retaking the grain from a good faith cash purchaser reduces him completely to the status of general creditor in a situation where there was very little he could do to guard against the loss."

the possessor's disposition of the goods have been such as to be larcenous under the criminal law."

The Uniform Commercial Code was approved in 1951 by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association.¹¹ It has been enacted into law in the States of Pennsylvania and New Hampshire and is under active study for introduction in a number of other States. The proponents of the code advocate its adoption by all of the States as a complete code covering all commercial transactions, replacing all existing uniform acts governing commercial transactions and making numerous modifications in existing law. They also advocate that it be enacted by Congress to apply to interstate transactions as an early step in obtaining general adoption.¹²

The proposed legislation would not relieve a purchaser from liability to the Government unless he bought the goods "for value in good faith and did not know or have reason to know of any defect in the warehouseman's authority to sell such goods." Moreover, the goods must have been bought "in the ordinary course of business" from a "warehouseman who was also in the business of buying and selling such goods." All rights of the Government against guilty purchasers, as well as warehousemen and their sureties, would be left unimpaired. Any purchaser who knew that the warehouseman had no authority to sell the goods or who bought them under circumstances sufficient to cause an honest and prudent man to make inquiry, would not be relieved from liability by the proposed legislation.

With relatively few exceptions, the evidence developed in the investigations made by this Department does not indicate that the purchasers knew that the warehousemen were improperly selling goods belonging to others. In some instances it appears that the purchasers bought through brokers and did not even know the identity of the seller.

Each of the bills which you have submitted to this Department contains a proviso expressly requiring that the buyer must have purchased the goods for value and in good faith, without knowledge of any defect in the warehouseman's authority to sell the goods. The proviso makes clear the class of persons entitled to the benefits of the legislation and appears to place upon any person claiming such benefits the burden of asserting and proving his claim as an affirmative defense. The purchaser is, of course, in a better position than the Government to know the facts with respect to his purchases.

STATEMENT BY R. L. FARRINGTON, SOLICITOR, UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, I appreciate the invitation to discuss H. R. 1831 (introduced by Mr. Poage) and H. R. 694 (introduced by Mr. Reed).

These two bills are identical. They would relieve from claims of Commodity Credit Corporation persons who bought and received physical delivery of grain or other fungible goods in good faith, and in the ordinary course of business, from a warehouseman who was also in the business of buying and selling such goods.

¹¹ In the foreword to the November 1951 final text edition of the Uniform Commercial Code, Herbert F. Goodrich, chairman of the editorial board and director of the American Law Institute, stated:

"We think this code represents a very important achievement in American law. Karl Llewellyn and Soia Mentschikoff have been the chief reporter and associate reporter, respectively, and they have been aided by many reporters in special subjects. But this code is not the product of the reporters. It has been participated in by scores of lawyers whose practice lies in particular fields in the commercial world. The conclusions reached in the code therefore represent the consensus of a large number of experienced professional people. We think that the changes in the present law herein proposed are in accordance with present day tendencies in growth and that this code is set up to read upon the business transactions of today's commerce, not that of 150 years ago."

¹² In an article in the March 1950 issue of the American Bar Association Journal (36 A. B. A. J. 179, 254), William A. Schnader, of Philadelphia, Pa., a member of the editorial board in charge of drafting and editorial work for the Uniform Commercial Code, wrote as follows:

"While the code has been prepared primarily for introduction into the State legislatures, there has been much discussion of the desirability of having it enacted by Congress to apply to interstate transactions. This could be done with a very few modifications of the text of the State act, although it is universally conceded that article 9—secured commercial transactions—should be omitted from a Federal act. Obviously, should the code be enacted by Congress, that step alone will result in greater uniformity in commercial law in the United States than has ever heretofore been attained; for today a very large part of the Nation's business is interstate. And if Congress enacts the code to govern all interstate commercial transactions, there would be a tremendous incentive for every state to write the code into its statutory law without the slightest delay.

"If complete uniformity of law covering all commercial transactions—interstate as well as intrastate—could be accomplished with reasonable promptness, there would probably be no disagreement that this would constitute one of the greatest achievements in the history of American law."

For the reasons stated hereinafter, the Department favors enactment of the legislation.

The proposed legislation would amend the Commodity Credit Corporation Charter Act by adding a new section as follows:

"A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman who was also in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the warehouseman to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the warehouseman's authority to sell such goods."

I believe it important to emphasize that in order to be free of any claim on account of the transaction, the buyer must have bought and accepted physical delivery of the goods in the ordinary course of business; from a warehouseman who was also in the business of buying and selling such goods; the buyer must have purchased the goods for value and in good faith; and he must not have known or had any reason to know of any defect in the warehouseman's authority to sell the goods.

The purpose of the legislation is to relieve the honest and prudent purchaser from having to pay for the goods twice—first to the irresponsible seller and next to the real owner of the goods. Showing that he bought the goods under circumstances entitling him to the benefits of the legislation would appear to be a matter of affirmative defense. It is to be presumed that the buyer knows the facts with respect to his purchases better than the Government, which was not a party to the transaction.

As I understand it, this legislation only covers the situation I have described. The Government would retain all of its rights against guilty warehousemen and their sureties, against guilty purchasers, and against purchasers who bought the goods under circumstances which would cause an honest and prudent man to make inquiry into the circumstances of the sale.

This legislation would apply only to claims of Commodity Credit Corporation; it would not affect other claims of the Government.

The bills would not change the present law on the rights of holders of over-issued or fictitious warehouse receipts.

The harshness of the rule of law, which the legislation is designed to correct, has been rather generally recognized. A Uniform Commercial Code has been proposed for adoption by the Congress and by the legislatures of several States. The proposed code has been approved by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association. The code contains a proposed provision similar in principle and legal effect to the provision proposed in the bills before this committee. The code has already been adopted in 2 States, has been introduced in 6, and is under study by committees in others.

In England, under what is technically called the "market overt" rule, purchasers of goods in good faith and in the ordinary course of business from regular dealers in open, public, and legally constituted markets, are not liable to persons asserting ownership of the goods. Although we inherited our principles of common law from England, the "market overt" rule historically has not been followed in the courts of this country. Instead, our courts have applied the principle of "caveat emptor"—"let the buyer beware." The rule in this country has been criticized on many occasions by lawyers and judges as being unduly harsh.

In view of the expanded storage operations of Commodity Credit Corporation since World War II, this rule has caused a major problem for grain dealers in this country. The problem is serious because, under the existing rule, purchasers from warehousemen can never be certain they are free from liability unless before each purchase they measure the grain in the elevator and compare the inventory with the outstanding warehouse receipts. Of course, as a practical matter, measuring the grain before each purchase would be virtually impossible.

The Department believes that in the long run passage of the bill will be a stabilizing factor in the marketing of grain. This is because a large number of suits will tend to cause many purchasers to hesitate to buy grain until they know the origin of it. The bill will be of special benefit to the smaller dealers whose net worth is insufficient to enable them to satisfy any large number of claims based upon double liability for the value of the grain they have bought and sold while innocent of the fact that the warehouseman is short in the grain in his elevator and does not have enough assets to satisfy all of his claims.

STATEMENT OF GLENN G. PAXTON, GENERAL COUNSEL, MILLERS' NATIONAL FEDERATION

Mr. Chairman and members of the committee, my name is Glenn G. Paxton, I am a lawyer and a member of the law firm of Campbell, Miller, Carroll & Paxton of Chicago, Ill. I am general counsel for the Millers' National Federation, a trade association representing the flour milling industry of the United States. The federation maintains offices in Chicago, Ill., and Washington, D. C. It has authorized its officers and me to testify in these hearings.

Flour millers necessarily buy large quantities of grain in the open market. Grain is an outstanding item in the category of fungible goods. Commodity Credit Corporation owns or lends money on a major portion of grain stored in the United States. Under present law, if Commodity Credit Corporation has grain in storage or under lien in a warehouse of whatever type and wherever located, and if the warehouseman wrongfully sells such grain, it may recover the grain or the value thereof from the purchaser or from any subsequent purchaser, however innocent.

The subject of this hearing is H. R. 1831, introduced by Representative Poage of Texas. Similar bills have been introduced by Representative Hope of Kansas, a member of this committee, and Representatives Reed and Cunningham. These bills would afford to an innocent purchaser of fungible goods, bought in the ordinary course of business from a warehouseman engaged in the business of buying and selling such goods, an opportunity to defend against claims of Commodity Credit Corporation by sustaining the burden of proof that he purchased the goods for value, in good faith, and that he neither knew nor had reason to know that the warehouseman had no right to sell the goods.

The first point I would like to discuss is the criticism that the bill would nullify certain traditional American legal principles. That it would have that effect in the limited circumstances described in the bill is admitted. It is submitted, however, that all legislation changes existing law and procedures—otherwise there would never be any need for legislation—that any proposed legislation should be considered on its merits, and that if equity and good conscience require that tradition be upset, then upset it must be.

The established American rule that an innocent purchaser of goods can acquire no better title than that of the seller is a harsh and inequitable rule when applied to fungible goods purchased from a dealer in such goods. It is contrary to the English law, although English law is basically the source of our system of jurisprudence. It has been justly criticized by many American courts but nevertheless survives on the basis of precedent. The inequity of this rule is recognized in the Uniform Commercial Code, which has been approved by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and the house of delegates of the American Bar Association, has been adopted in at least one State, and is under consideration in others. This code would extend to innocent purchasers of fungible goods purchased from a warehouseman engaged in the business of buying and selling such goods an opportunity to defend on the ground of innocence against claims of any holder of a warehouse receipt covering such goods.

The inequity of the American rule is readily apparent. Fungible goods are not identifiable and one who stores such goods with a dealer invests the dealer with apparent title, thus making it possible for him to defraud innocent purchasers. If 1 of 2 innocent persons—the owner and the innocent purchaser—is to suffer, traditional equitable principles would throw the loss on the person who made the loss possible, but in this particular field these equitable principles have been neglected. In these cases it is the owner of the goods who stores them in the warehouse of a dealer, thus giving the dealer the opportunity to accomplish the fraud, who makes it possible for the loss to occur. It will be noted that the situation is not analogous to a case in which a thief steals the property of a person with whom he has had no business dealings. In the latter case the owner has not voluntarily taken any action which creates an opportunity for a loss to occur.

The second point I wish to discuss is the suggestion that this bill would encourage collusion between a defaulting warehouseman and a purchaser. Upon analysis this appears unlikely. Collusion and conspiracy may occur from time to time whether or not this bill is passed, but not as a result of the bill.

The bill has reference only to certain sales of fungible goods of Commodity Credit Corporation to buyers in good faith "who did not know or have reason to know of any defect in the warehouseman's authority to sell." This language is familiar in the law and adequately describes an innocent purchaser, and it is

traditionally accepted as not offering inducement to one who is not an innocent purchaser to conspire with a seller. Such purchaser would still be liable for the value of the goods. The sole purpose of the proposed legislation is to provide an innocent purchaser with the opportunity to defend on the ground of his innocence. The burden of proving such innocence would be on him. The bill would not relieve a purchaser of any criminal penalties for collusion or conspiracy with the defaulting warehouseman. And, of course, the bill would not relieve the defaulting warehouseman of any civil or criminal responsibilities.

The third point upon which I wish to comment is the objection that this bill would deprive Commodity Credit Corporation of remedies that would still be available to other owners of fungible goods. To a certain extent that is true, but upon analysis the objection does not appear to be valid.

In the first place it is fitting that the Federal Government take the lead in effecting a long needed change in the law. It should not be the policy of Government to oppress innocent citizens. The Government has here the opportunity to abandon a harsh rule insofar as its own transactions are concerned. Such action might even encourage the States to follow with similar legislation of general application.

Furthermore, Commodity Credit Corporation has a distinct advantage in this type of situation over other owners of grain, as follows:

1. Under its charter, and under its uniform storage agreements, it has broad powers to inspect, investigate, and otherwise police its warehouseman—powers which are not available to ordinary holders of warehouse receipts.

2. It is subject only to the 6-year statute of limitations provided in its charter, whereas other claimants are subject to the applicable statute of limitations of a particular State, which in some States is as short as 2 years.

3. Enjoying the immunities of the United States, it is not subject to estoppels and equitable defenses which may be raised by innocent purchasers against ordinary claimants.

4. Enjoying the priorities of the United States, it has priority over other claimants with respect to claims against decedents, insolvents, and other debtors.

5. Being an arm of the Government, it is not bound by the unauthorized acts of its agents even though they are invested with apparent authority to act.

6. Finally, the advent of Commodity Credit Corporation as the dominant owner of grain in store, the magnitude of its holdings, and the consequent difficulty of maintaining close supervision over all warehousemen has undoubtedly contributed to many conversions, resulting in an unprecedented number of claims against innocent third persons.

In conclusion, I would like to suggest that the prevailing rule presents practical problems which could seriously affect the national economy. For example, millers purchase grain on the open market whenever needed, at going market prices, often without any way of determining the origin of the grain. Until the Commodity Credit Corporation became the dominant owner and storer of grain most millers never experienced a claim of adverse ownership to grain purchased by them. The fact that numerous claims are now being prosecuted by Commodity is becoming well known. Flour millers as well as other buyers of grain are becoming aware of the dangers. It is not too fanciful to predict that unless this situation is remedied, large users of grain and other purchasers in terminal markets eventually will refuse to purchase from any seller, other than Commodity Credit Corporation, who does not have the highest credit rating or who cannot furnish full coverage by bond. The effect of such a development on the country elevator operator and the farmer and producer is obvious. However, an attorney cannot under present law advise a client of any other safe procedure in buying grain.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX, of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMODITY CREDIT CORPORATION CHARTER ACT, AS AMENDED

* * * * * *

SEC. 19. RELEASE OF INNOCENT PURCHASERS OF CONVERTED GOODS.—A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman or other dealer who was regularly engaged in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the seller to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the seller's authority to sell such goods. To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief.



Calendar No. 274

84TH CONGRESS
1ST SESSION

H. R. 1831

[Report No. 270]

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, MARCH 10), 1955

Read twice and referred to the Committee on Agriculture and Forestry

MAY 4 (legislative day, MAY 2), 1955

Reported by Mr. HOLLAND, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Commodity Credit Corporation Charter Act, as
4 amended (62 Stat. 1070), is hereby amended by adding at
5 the end thereof the following new section:

6 “SEC. 19. RELEASE OF INNOCENT PURCHASERS OF
7 CONVERTED GOODS.—A buyer in the ordinary course of
8 business of fungible goods heretofore or hereafter sold and
9 physically delivered by a warehouseman *or other dealer*
10 who was ~~also~~ *regularly engaged* in the business of buying

1 and selling such goods shall take or be deemed to have taken
2 such goods free of any claim, existing or hereafter arising,
3 by Commodity Credit Corporation, based on the want of
4 authority in the ~~warehouseman~~ seller to sell such goods,
5 provided the buyer purchased such goods for value in good
6 faith and did not know or have reason to know of any
7 defect in the ~~warehouseman's~~ seller's authority to sell such
8 goods. *To be entitled to relief under this section a buyer*
9 *must assert as an affirmative defense and establish by a*
10 *preponderance of the evidence the facts necessary to entitle*
11 *him to such relief."*

Amend the title so as to read: "An Act to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods from claims of the Commodity Credit Corporation."

Passed the House of Representatives March 29, 1955.

Attest:

RALPH R. ROBERTS,

Clerk.

84TH CONGRESS
1ST SESSION

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[Report No. 270]

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To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

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Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 10, 1955
For actions of May 9, 1955
84th-1st, No. 75

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HIGHLIGHTS: Senate passed bills to: give CEA subpoena power; protect innocent purchasers of fungible goods from CCC claims; authorize inter-agency fire protection agreements. Senate subcommittee approved bill limiting interest on disaster loans to 3%. House sent Interior appropriation bill (which includes FS items) to conference; debated Hawaii-Alaska statehood bill. House committee reported bills to give CEA subpoena power, authorize land banks to purchase FFMC assets, and repeal REA-State formula. Sen. Allett introduced and discussed emergency loans bill. Sen. Smathers intr. and discussed bill to carry out recommendations of President's transportation committee.

SENATE

1. COMMODITY EXCHANGES. Passed without amendment S. 1398, to provide subpoena power to the Commodity Exchange Authority (pp. 4987-8).
2. CCC CLAIMS. Passed as reported H. R. 1831, to protect innocent purchasers of fungible goods converted by warehousemen from CCC claims (pp. 4988-9).
3. FOREST FIRES. Passed as reported S. 1006, to authorize the execution of agreements between agencies of the U. S. and other agencies and instrumentalities for mutual aid in fire protection (p. 4990).
4. PUBLIC LANDS. Passed as reported S. 265, to amend the acts authorizing agricultural entries under the nonmineral land laws of certain mineral lands in order to increase the limitation with respect to desert entries made under such acts to 320 acres (p. 4987).
Passed without amendment S. 748, to prohibit the U. S. from acquiring mineral interests in lands acquired by it except when necessary to serve the purpose for which such lands are acquired (pp. 4986-7).
5. ANIMAL DISEASE. Passed without amendment S. 1133, to authorize USDA to pay indemnity for losses and expenses incurred during July 1954 in Iowa in connection with vesicular exanthema (p. 4988).

6. RECORDS. Passed without amendment S. 1007, to authorize GSA to establish a central depository for inter-state agreements (p. 4989).
7. FARM LOANS. On May 6 (during Senate recess) a subcommittee of the Agriculture and Forestry Committee approved for reporting to the full committee S. 1755, to reduce interest rates from 5% to 3% on disaster loans (p. D386).
8. RECESSED until Wed., May 11. Majority Leader Johnson stated that the postal pay bill may be considered Wed. and that the roads bill may be considered later in the week. (p. 4993.)

HOUSE

9. INTERIOR DEPARTMENT AND RELATED AGENCIES APPROPRIATION BILL FOR 1956. Reps. Kirwan, Norrell, Sieminski, Magnuson, Jensen, Fenton, Scrivner, and Taber were appointed conferees on this bill, H. R. 5085 (p. 4994). Senate conferees have been appointed.
10. RURAL ELECTRIFICATION; COMMODITY EXCHANGES; FARM CREDIT. The Agriculture Committee reported without amendment H. R. 5376, to repeal the State allotment formula for REA (H. Rept. 547); H. R. 4514, to authorize subpoenas under the Commodity Exchange Act (H. Rept. 552); and S. 941, to authorize the Federal land banks to purchase certain remaining assets of the Federal Farm Mortgage Corporation (H. Rept. 550) (p. 5029).
11. FIRE PROTECTION. The Government Operations Committee reported without amendment H. R. 6015, to authorize the execution of agreements between agencies of the U. S. and other agencies and instrumentalities for mutual aid in fire protection (H. Rept. 549) (p. 5029).
12. PERSONNEL. The Judiciary Committee reported without amendment H. R. 5650, to provide for the settlement of claims of military personnel and civilian employees of the Federal Government for damage to, or loss, destruction, capture, or abandonment of personal property occurring incident to their service (H. Rept. 553) (p. 5029).
13. CIVIC AUDITORIUM. Passed as reported H. R. 1825, creating a commission to plan a D. C. civic auditorium (pp. 5009-13).
14. STATEHOOD. Began debate on H. R. 2535, the Alaska-Hawaii statehood bill (pp. 5013-24).
15. POTATOES. Received a Maine Legislature memorial recommending an investigation of the Mercantile Exchange for the purpose of providing greater stability in the potato industry (p. 5031).

BILLS APPROVED BY THE PRESIDENT

16. RICE ALLOTMENTS. H. R. 4647, which increases each 1955 State rice acreage allotment by 2%, provides each State with a 1955 rice allotment at least equal to its 1950 allotment, provides each county whose base acreage for 1955 exceeded by at least 2% its base acreage for 1950 with a 1955 rice allotment at least equal to its 1950 allotment, and increases each State reserve for new producers and new farms to a minimum of 500 acres. Approved May 5, 1955 (Public Law 29, 84th Cong.).

ing mineral interests in lands acquired by it except when necessary to serve the purpose for which such lands are acquired.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. LONG. Mr. President, this bill would merely fix the policy of the Federal Government with regard to the taking and expropriation of mineral rights belonging to citizens. In many instances the Government has unnecessarily condemned and expropriated such mineral rights. The bill provides that the Government shall take the mineral rights of citizens only when the Government finds it necessary to do so, or when the use to which the Government intends to put the land would be impracticable or infeasible if the Government did not take the mineral rights.

In the past a considerable number of complaints have been made, in most instances by citizens who, on the basis of good legal advice, have taken the precaution to protect their mineral rights when the Government has sought to acquire their land. It is unfortunately true, however, that many persons who have not had legal advice did not resist the taking of their mineral rights, and therefore in many instances, the Federal Government has unnecessarily deprived them of their mineral rights.

As a matter of fact, Mr. President, the Federal Government now owns more than 25 percent of all the land in the United States, and it already has mineral rights to all the submerged lands of the Continental Shelf. Therefore, in most cases, there is no real need for the Federal Government to condemn or to expropriate mineral rights of citizens. The pending bill sets forth the conditions under which the Federal Government may take mineral rights if it finds it to be necessary to do so.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That (a) except as provided in section 2, whenever the United States acquires any land, by any means whatsoever, it shall not acquire any mineral rights or interests in or in connection with such land.

(b) Except as provided in section 2, every deed conveying land to the United States which is executed after the date of enactment of this act pursuant to negotiations carried on, and a consideration agreed upon, after such date shall contain a specific reservation of all mineral interests in such land to the transferor thereof. The provisions of subsection (a) shall be effective notwithstanding that any such deed does not contain the reservation required by this subsection.

(c) Except as provided in section 2, every judgment in proceedings for condemnation of land instituted by the United States after the date of enactment of this act shall contain a specific reservation of all mineral interests in such land to the defendant in such proceedings. The provisions of subsection

(a) shall be effective notwithstanding that any such judgment does not contain the reservation required by this subsection.

SEC. 2. (a) The provisions of the first section of this act shall not apply to the acquisition by the United States of mineral interests in and to land acquired by the United States in any case in which the head of the department, agency, instrumentality, or independent establishment acquiring such land determines, and the deed or the judgment in proceedings for condemnation of such land recites, that—

(1) the acquisition of such mineral interests is necessary to serve the purpose for which the land is being acquired; or

(2) the national security requires that the United States own all right, title, and interest, including mineral interests, in and to the land being acquired; or

(3) the use to which the United States intends to put such land renders its development for mineral purposes infeasible.

(b) Nothing contained in this act shall be construed to alter or amend any provision of the Atomic Energy Act of 1954.

SEC. 3. As used in this act, the term "United States" includes all departments, agencies, instrumentalities, and independent establishments of the Government of the United States.

INCREASE OF LIMITATION WITH RESPECT TO DESERT LANDS UNDER THE NONMINERAL LAND LAWS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 254, S. 265.

The PRESIDING OFFICER. The Secretary will state the bill by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 265) to amend the acts authorizing agricultural entries under the nonmineral land laws of certain mineral lands in order to increase the limitation with respect to desert entries made under such acts to 320 acres.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 7, after the word "who", to insert "prior to the date of approval of this act"; in line 12, after the word "of", to strike out "this act" and insert "such acts, as hereby amended", and at the beginning of line 18, to strike out "July 17, 1914," and insert "June 28, 1934", so as to made the bill read:

Be it enacted, etc., That the first section of the act entitled "An act to provide for agricultural entries on coal lands," approved June 22, 1910 (36 Stat. 583), is amended by deleting the following: "no desert entry made under the provisions of this act shall contain more than 160 acres, and."

SEC. 2. The first section of the act entitled "An act to provide for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas, or asphaltic minerals," approved July 17, 1914 (38 Stat. 509), is amended by deleting the follows: "; but no desert entry made under the provisions of this act shall contain more than 160 acres."

SEC. 3. Any person who, prior to the date of approval of this act, has made a valid desert-land entry on lands subject to such act of June 22, 1910, or of July 17, 1914, may,

if otherwise qualified, enter as a personal privilege, not assignable, an additional tract of desert land subject to the provisions of such acts, as hereby amended, and section 7 of the act entitled "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934, as amended (48 Stat. 1269; 1272; 43 U. S. C., sec. 315f). Such additional tract shall not, together with the original entry, exceed 320 acres. The holder of an additional entry authorized under this section shall comply with all the requirements of the desert-land law on the lands embraced by such additional entry.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

Mr. BARRETT. Mr. President, last year the Senate passed a bill similar to the pending bill, but the House of Representatives failed to take action on it. I hope that if this bill is passed by the Senate, it will receive favorable consideration by the House.

The purpose of the bill is to bring about conformity with regard to three different laws affecting nonmineral desert-homestead entries. Under the act of 1877, such entries may be made for a total of not more than 320 acres. However, under the acts of June 22, 1910, and July 17, 1914, only 160 acres are permitted under desert entries.

The pending bill would make entries of 320 acres possible on a uniform basis under each of those laws. The minerals are reserved under each act.

The bill will not affect in any way the provisions of the Reclamation Act regarding acreage limitations.

The bill has the approval of the Secretary of the Interior, and of the Bureau of the Budget, and it was unanimously reported by the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STRENGTHENING OF INVESTIGATION PROVISIONS OF THE COMMODITY EXCHANGE ACT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 272, S. 1398.

The PRESIDING OFFICER. The Secretary will state the bill by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 1398) to strengthen the investigation provisions of the Commodity Exchange Act.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I should like to ask the Senator from Louisiana to give a brief explanation of S. 1398, the pending bill.

Mr. ELLENDER. Mr. President, the purpose of the bill is to permit witnesses to be subpoenaed for the purpose of investigations under the Commodity Exchange Act. At present witnesses may be subpoenaed for the purpose of proceedings, but not investigations. This additional authority would strengthen administration of the Commodity Exchange Act, and in some cases might make the institution of formal proceedings unnecessary. The substance of this bill was included in S. 1990, which was considered and passed by the Senate in the last session of Congress.

The PRESIDING OFFICER. The bill is open to amendment. If there is no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the third sentence of section 6 (b) of the Commodity Exchange Act (7 U. S. C. 15) is amended to read as follows: "For the purpose of securing effective enforcement of the provisions of this act, and for the purpose of any investigation or proceeding under this act, the provisions, including penalties, of the Interstate Commerce Act, as amended and supplemented (49 U. S. C. 12, 46, 47, 48), relating to the attendance and testimony of witnesses, the production of documentary evidence, and the immunity of witnesses, are made applicable to the power, jurisdiction, and authority of the Secretary of Agriculture (or any person designated by him), the commission, and any referee designated pursuant to the provisions of this act, and to any person subject thereto."

INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Mr. DOUGLAS. Mr. President, I should like to ask the Senator from Texas if it is his intention to call up today Order No. 271, Senate Joint Resolution 38, consenting to an interstate compact to conserve oil and gas?

Mr. JOHNSON of Texas. No; that joint resolution was passed over at the request of the Senator from Illinois.

Mr. DOUGLAS. I should like to propose an amendment to the bill. If the amendment is satisfactory and can be agreed to, I shall not interpose an objection.

Mr. JOHNSON of Texas. The majority leader did not plan to move to have the Senate proceed to the consideration of that bill at this time. If the Senator from Illinois will discuss his amendment with the Senator from Louisiana [Mr. LONG], who reported the bill, it may be possible to consider the bill later today, provided it is not controversial.

Mr. DOUGLAS. Very well.

INDEMNITY FOR LOSSES CAUSED BY DESTRUCTION OF SWINE AND SWINE CARCASSES

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 273, S. 1133.

The PRESIDING OFFICER. The Secretary will state the bill by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 1133) to authorize the Secretary of Agriculture to pay indemnity for losses and expenses incurred during July 1954, in the destruction, treatment, or processing, under authority of law, of swine and swine carcasses infected with vesicular exanthema.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. HICKENLOOPER. Mr. President, I merely wish to call attention to the fact that the bill authorizes the Federal Government to participate with the State of Iowa in paying indemnities for certain swine which were killed prior to the authorization which the State of Iowa eventually gave for its participation in the program. That authorization was given at the present session of the legislature of Iowa. It is necessary to pass the pending bill in order to authorize the participation of the Federal Government.

So far as the Federal Government is concerned, the amount of money involved is approximately \$30,000, which is about half the total of about \$60,000. In other words, the Federal Government would pay half the cost and the State of Iowa would pay the other half.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, That the Secretary of Agriculture is authorized and directed to indemnify in an amount equal to 50 percent, but not exceeding the indemnity paid by the State in which such losses and expenses were incurred by all persons whose swine, swine carcasses, and products derived from swine carcasses were destroyed, treated, or processed, under authority of law, in July 1954, as a result of having been infected with or exposed to the contagious disease known as vesicular exanthema.

SEC. 2. The payment of indemnities under the provisions of this act shall be limited, in the absence of Federal appraisal, to those losses and expenses where required proof of such losses and expenses has been made to the State in which such losses and expenses were incurred and 50 percent of such loss and expense has been paid by such State.

SEC. 3. Payments made pursuant to the provisions of this act shall be made from funds currently available to the Department of Agriculture.

EXEMPTION FROM PAYMENT OF INCOME TAXES TO MEMBERS OF ARMED FORCES HELD AS PRISONERS BY COMMUNISTIC-CONTROLLED AUTHORITIES—BILL INDEFINITELY POSTPONED

Mr. KNOWLAND. Mr. President, I ask unanimous consent that Senate bill 1653, for the relief of members of the Armed Forces in respect to payment of income taxes while held as prisoners by Communistic-controlled authorities, be indefinitely postponed for the reason that there has been other proposed legislation introduced in both Houses which is now pending before the appropriate committees.

The PRESIDING OFFICER. Without objection, Senate bill 1653 is indefinitely postponed.

PROTECTION OF INNOCENT PURCHASERS OF FUNGIBLE GOODS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 274, House bill 1831.

The PRESIDING OFFICER. The Secretary will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments, on page 1, line 9, after the word "warehouseman", to insert "or other dealer"; in line 10, after the word "was", to strike out "also" and insert "regularly engaged"; on page 2, line 4, after the word "the", to strike out "warehouseman" and insert "seller"; in line 7, after the word "the", to strike out "warehouseman's" and insert "seller's"; and in line 8, after the word "goods", to insert "To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief."

The amendments were agreed to.

Mr. ELLENDER. Mr. President, this bill would relieve innocent purchasers of fungible goods from claims of the Commodity Credit Corporation for conversion, where the purchase was made for value in good faith and in the ordinary course of business from a person regularly engaged in the buying and selling of such goods. It covers existing claims, which amount to approximately \$3½ million, as well as possible future claims.

The bill provides a special rule for the Corporation not applicable to other depositors of grain, because the facts appear to require a special rule. The Corporation has in storage extensive quantities of grain, the amount far surpassing that stored by any other depositor.

When a number of warehousemen converted the Corporation's grain several years ago and the Corporation elected to follow the grain into the hands of those who purchased it, the entire industry was confronted with a serious problem. The purchasers, many of whom had no way of knowing or determining that grain belonged to the Corporation, now face substantial losses; and every person who purchases grains knows that he runs a risk against which he cannot protect himself. On the other hand the Corporation, because it is a large depositor, is in a better position to protect itself through bonds, inspection, and other means.

The general rule which permits these claims against innocent purchasers has been widely criticized by lawyers, and its change has been recommended in the Uniform Commercial Code by the American Law Institute and the National Conference of Commissioners on Uniform State Laws, with the approval of the house of delegates of the American Bar Association. This bill would change the general rule insofar as it relates to the Corporation's claims.

As passed by the House the bill applied only to goods sold by a warehouseman who was also a dealer in such goods. This might protect the purchaser of grain from a warehouseman who was also a dealer, but subsequent purchasers would have no way of determining the facts and would, therefore, be forced to continue to make purchases of grain at their peril. The committee amendments, therefore, extend the bill to cover fungible goods sold by any dealer regularly engaged in buying and selling such goods provided, of course, that the purchase of such goods was otherwise within the provisions of the bill.

The committee amendments would also add a final sentence to the bill making it clear that the buyer has the burden of proving the facts necessary to entitle him to the special defense provided by the bill.

Mr. SALTONSTALL. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield.

Mr. SALTONSTALL. From reading the language of the bill itself, I am a little unclear as to its meaning. If a buyer purchases goods and believes that the title in them is good, I am wondering whether the amendment on page 2, line 8, would require him to set up an affirmative defense. Why should he have to set up an affirmative defense? I should think that the other side would have to set up an affirmative defense.

Mr. ELLENDER. The buyer might be sued by the Commodity Credit Corporation for conversion if it were the owner of the goods. Then the buyer would have to set up as an affirmative defense that his purchase was made in good faith, in the regular course of business, from a person regularly engaged in the grain business, and the other elements necessary under the bill to constitute a defense. The language referred to makes it clear that the buyer has the burden of proof in making this defense.

Mr. SALTONSTALL. In other words, the purpose is to provide an affirmative

defense which the buyer must prove by a preponderance of the evidence, if the second seller does not have title to the goods. Otherwise, he is liable for the goods.

Mr. ELLENDER. That is correct.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods from claims of the Commodity Credit Corporation."

DONATION OF CERTAIN PROPERTY TO THE AMERICAN NATIONAL RED CROSS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 275, Senate bill 614.

The PRESIDING OFFICER. The secretary will state the bill by title.

The CHIEF CLERK. A bill (S. 614) to amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the Administrator of the General Services to donate certain property to the American National Red Cross.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, is amended by renumbering subsection (l) of section 203 as subsection "(m)" and adding subsection (l) as follows:

"(l) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to donate to the American National Red Cross, for charitable purposes, such property, which was processed, produced, or donated by the American National Red Cross, as shall have been determined to be surplus property."

AMENDMENT OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 276, Senate bill 1007.

The PRESIDING OFFICER. The Secretary will state the bill by title, for the information of the Senate.

The CHIEF CLERK. A bill (S. 1007) to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Washington give us a brief explanation of the bill?

Mr. JACKSON. Mr. President, the purpose of this bill is to establish a central statutory depository for agreements or compacts between the several States, for proper preservation and for servicing by the archival services of the General Services Administration. Its approval would further implement the purposes of Reorganization Plan No. 20 of 1950, which transferred from the Secretary of State to the Administrator of General Services functions having no connection with the conduct of foreign affairs, in order to establish a centralized records management service. The bill is permissive and not mandatory, and its primary objective is to aid the States by providing a central governmental depository for such compacts and agreements, and a medium through which appropriate inquiries may be cleared.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Federal Property and Administrative Services Act of 1949, as amended, is hereby further amended as follows:

(a) By adding a new subsection (g) to section 507 to read as follows:

"(g) The Administrator is hereby authorized to receive duplicate originals or duly authenticated copies of agreements or compacts entered into, pursuant to the Constitution and laws of the United States, between States now or hereafter admitted to the Union, and to take all necessary actions for their preservation and servicing."

ADMINISTRATIVE EXPENSES IN THE TREASURY DEPARTMENT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 277, Senate bill 1727.

The PRESIDING OFFICER. The Secretary will state the bill by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 1727) to authorize certain administrative expenses in the Treasury Department, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JACKSON. Mr. President, the purpose of the bill is to provide basic legislative authority for certain authorization provisions which have been included from year to year in the Treasury appropriation acts.

I may say that the provisions would have been subject to a point of order if such a point of order had been raised.

A draft of the bill was submitted to the Senate by the Secretary of the Treas-

ury, with a request for its enactment into law in order to avoid possible points of order which might be raised against such provisions.

The basic legislative authority is considered desirable with respect to the specific items contained in the bill, which have been approved annually in the enactment of the Treasury appropriation acts.

The Senator from Arizona [Mr. HAYDEN], chairman of the Senate Committee on Appropriations, has advised the committee that the bill "would be advantageous to the legislative process," and that "certainly basic legislative authority is preferable to continuing such provisions in annual appropriation bills, subject as they are to a point of order."

The Director of the Bureau of the Budget, in a letter addressed to the committee, commented as follows:

The purpose of the bill is to provide basic authority for the legislative provisions in the bill which have been included each year in Treasury Department appropriation acts. Since points of order might be raised with respect to these items, basic legislation is desirable. It is recommended that your committee give favorable consideration to this bill.

The bill was reported unanimously by the committee.

THE PRESIDING OFFICER. The bill is open to amendment. If there be no amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury may make the following expenditures:

(a) Expenditures for arms and ammunition required by civilian employees of the Department of the Treasury in the performance of their official duties.

(b) Expenditures to reimburse Federal Reserve banks and branches for necessary expenses for services performed as Government depositaries and as fiscal agents of the United States.

(c) Expenditures not to exceed \$10,000 per annum for services or information looking toward the apprehension of narcotic-law violators who are fugitives from justice.

SEC. 2. The Secretary of the Treasury is authorized to accept services without compensation in connection with the program for the sale of United States public-debt obligations.

SEC. 3. Section 10 of the Second Liberty Bond Act, as amended (40 Stat. 292; U. S. C., title 31, sec. 760), is amended by adding at the end thereof the following sentence: "During any period for which a definite appropriation has been made for expenses for which this section makes as indefinite appropriation, the definite appropriation shall be available under the terms of this section and the indefinite appropriation shall not be available for obligation."

RECIPROCAL FIRE-PROTECTION AGREEMENTS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 278, Senate bill 1006.

THE PRESIDING OFFICER. The Secretary will state the bill by title.

THE CHIEF CLERK. A bill (S. 1006) to authorize reciprocal fire-protection

agreements between departments and agencies of the United States and public or private organizations engaged in fire-fighting activities, and for other purposes.

THE PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill which had been reported from the Committee on Government Operations, with an amendment, to strike out all after the enacting clause and insert:

That as used in this act—

(a) The term "agency head" means the head of any executive department, military department, agency, or independent establishment in the executive branch of the Government;

(b) The term "fire protection" includes personal services and equipment required for fire prevention, the protection of life and property from fire, and fire fighting; and

(c) The term "fire organization" means any governmental entity or public or private corporation or association maintaining fire protection facilities within the United States, its Territories and possessions, and any governmental entity or public or private corporation or association which maintains fire protection facilities in any foreign country in the vicinity of any installation of the United States.

SEC. 2. (a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

(b) Any agreement heretofore executed which would have been authorized by this act, if this act had been in effect on the date of execution thereof, is hereby ratified and confirmed.

SEC. 3. In the absence of any agreement authorized or ratified by section 2, each agency head is authorized to render emergency assistance in extinguishing fires and in preserving life and property from fire, within the vicinity of any place at which such agency maintains fire-protection facilities, when the rendition of such assistance is determined, under regulations prescribed by the agency head, to be in the best interest of the United States.

SEC. 4. Any service performed under section 2 or section 3 of this act, by any officer or employee of the United States or any member of any armed force of the United States shall constitute service rendered in line of duty in such office, employment, or force. The performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of the Federal Employees' Compensation Act, as amended.

SEC. 5. Funds available to any agency head for fire protection on installations or in connection with activities under the jurisdiction of such agency may be used to carry out the purposes of this act. All sums received by any agency head for fire protection rendered pursuant to this act shall be covered into the Treasury as miscellaneous receipts.

Mr. JACKSON. Mr. President, the bill was submitted to the Senate by the Department of the Navy on behalf of the Department of Defense, with a request for its enactment. It would authorize executive branch department and agency heads, including the heads of the military departments, to enter into mutual-aid-fire-protection agreements with local governmental units, public or private organizations, or foreign governmental public or private units, engaged in fire-fighting activities near Federal installations or activities. It would establish no new policy, but would merely provide statutory sanction for a practice which has been in effect for a number of years, but which, in 1952, was held by the Comptroller General to constitute an unauthorized use of appropriated funds, in the absence of specific congressional authority.

The primary objective of the measure would be to authorize the continuation of this long-established practice which enables the Federal Government to provide maximum fire protection for its installations and activities throughout the world at a minimum cost by utilizing local civilian fire-protection personnel and facilities on a reciprocal basis, thus obviating the necessity for maintaining the large numbers of fire-fighting personnel and expensive equipment which would otherwise be necessary for the adequate protection of these installations and properties.

The bill has the full approval of the appropriate agencies of the executive branch of the Government, and it was reported unanimously by the Committee on Government Operations.

THE PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the execution of agreements between agencies of the United States and other agencies and instrumentalities for mutual aid in fire protection, and for other purposes."

INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 271, Senate Joint Resolution 38.

THE PRESIDING OFFICER. The Secretary will state the bill by title.

THE CHIEF CLERK. A joint resolution (S. J. Res. 38) consenting to an interstate compact to conserve oil and gas.

THE PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the joint resolution, which had been reported from Committee on Interior and Insular Affairs, with amendments on page 10, line 22, after the word "An", to strike out "S. J. Res. 42—2", and on page 11, line 3, after "September 1", to strike out "1951".

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

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For actions of May 11, 1955
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HIGHLIGHTS: House committee reported surplus-commodities donation bill. House concurred in Senate amendments to bill relieving innocent purchasers of converted goods from CCC claims. Ready for President. House members commended REA program. House debated reserve manpower bill and defense appropriation bill. Senate committee reported bill to increase per diem allowances. Senators commended REA program.

HOUSE

1. SURPLUS COMMODITIES. The Agriculture Committee reported with amendment H. R. 2851, to authorize CCC to process food commodities for donation to the needy (H. Rept. 583)(p. 5255). For provisions of this bill as reported, see Digest No. 72.
Reps. Murray and Mack, both of Ill., spoke against plans of the State Government to discontinue certain relief distribution of surplus foods there (pp. 5238-9).
2. CCC CLAIMS. Concurred in the Senate amendments to H. R. 1831, to protect innocent purchasers of fungible goods converted by warehousemen from CCC claims (p. 5195). This bill will now be sent to the President.
3. DEFENSE APPROPRIATION BILL FOR 1956. Began debate on this bill, H. R. 6042 (pp. 5195-6, 5200-222).
4. RESERVE MANPOWER. Began debate on H. R. 5297, to provide for strengthening the Reserve Forces for national defense (pp. 5196-200).
5. RURAL ELECTRIFICATION. Several members commended the REA program on its anniversary (pp. 5223-37).
6. LAND TRANSFER. The Agriculture Committee reported with amendment H. R. 1762, to

sell an ARS land tract to Woodward, Okla. (H. Rept. 584)(p. 5255).

7. TRADE AGREEMENTS. Rep. Hand criticized the trade agreements program (pp. 5237-8).
8. PRICE DISCRIMINATION. Rep. Patman inserted his statement favoring the Robinson-Patman Act and additional anti-price discrimination legislation (pp. 5239-54).
9. LEGISLATIVE PROGRAM. Majority Whip Albert announced that the House is expected to adjourn from today until Mon. if action on the defense appropriation bill is completed. Agreed to have the consent calendar called Tues. (p. 5222.)

SENATE

10. TRAVEL EXPENSES. The Post Office and Civil Service Committee reported without amendment S. 1580, to increase the maximum per diem and subsistence allowance of Federal employees from \$9 to \$13 per day, and the maximum auto allowance from 7 to 10 cents per mile (S. Rept. 348) (p. 5109).
11. POSTAL PAY. Agreed to the conference report on S. 1, the postal pay bill (pp. 5174-8). This bill will now be sent to the President.
12. PERSONNEL. Agreed to, as reported, S. Res. 33, providing for an investigation by the Post Office and Civil Service Committee, of the administration of the civil service system by the Civil Service Commission and other Government agencies (p. 5179).
13. SUGAR QUOTAS. Sen. Allott inserted a Denver Chamber of Commerce resolution urging immediate domestic sugar quota increases (pp. 5105-6).
14. FORESTRY. Sen. McNamara inserted a University of Michigan resolution requesting adequate funds for the Forest Service for the development of recreational facilities and for wildlife management on the national forests (p. 5107).
15. WATER POLLUTION. Sen. Humphrey inserted a Minn. Water Pollution Control Commission resolution opposing S. 890, a bill to amend and extend the Water Pollution Control Act (p. 5108).
16. REAL PROPERTY. Sen. Humphrey inserted a City Council of St. Paul, Minn., resolution recommending passage of S. 1566, proposing payments to State and local governments on Federal real property (p. 5108).
17. ELECTRIFICATION: WATER RESOURCES. Sen. Neuberger criticized the administration's water resource and power development policies, and inserted several newspaper articles on this subject (pp. 5143-4).
Sens. Johnson, McClellan, Fulbright, Morse, and others, commended REA on its 20th anniversary, discussed the development of the rural electrification program, and stated "it has been an institution characterized by wise management, sound business practice, and by the extension of credit at reasonable rates of interest over a long period of time" (pp. 5144-60, 5182-6).
18. RECESSED until Friday, May 13 (p. 5179).

cuts in the Army. That amendment, of course, I shall introduce at the proper time. But nothing has been said of the fact, and many Members of the House have inquired of me concerning whether I propose to introduce an amendment to restore the cut in the Marine Corps.

In view of the fact that the overall expression of strategy by the Joint Chiefs of Staff and by the administration is to build up the effectiveness of a force in being and an elite corps of striking power, I want to assure the Members that at the proper time I propose to introduce an amendment to restore the cut in the United States Marine Corps.

SPECIAL ORDER GRANTED

Mr. PATMAN asked and was given permission to address the House today for 30 minutes, following the legislative program and any special orders heretofore entered, to revise and extend his remarks and insert extraneous material.

CORRECTION OF ROLL CALL

Mr. WILSON of Indiana. Mr. Speaker, on roll call No. 52, Mr. WILSON of Indiana was recorded as not being present. He was present and voted aye. I ask unanimous consent that the RECORD and the Journal be corrected accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFUSION IN DISTRIBUTION OF SALK ANTIPOLIO VACCINE

(Mr. FOGARTY asked and was given permission to address the House for 1 minute.)

Mr. FOGARTY. Mr. Speaker, about 1 month ago the famous Francis report on the Salk vaccine was announced to this Nation and to the world. It had a Hollywood premier effect on the people of this country. It seemed to give the impression to all the mothers of the children who were to be inoculated with this vaccine that it was 100 percent effective, which is not the fact. The fact is that it will prevent polio up to within 80 percent and 90 percent of those inoculated.

Also, it gave to the public of this country the impression that we had enough of it on hand at that time to inoculate all those who needed it. The confusion that has developed over the manufacture and distribution and the safety of this vaccine by those in control here in Washington is causing great concern throughout the Nation. If the authorities in Washington who have control over this vaccine do not see fit to appear willingly before the appropriate committees of the Congress, it seems to me that those committees should take proper action and see to it that something is done to straighten this mess out, and do it quickly.

COMMITTEE ON GOVERNMENT OPERATIONS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee

on Government Operations, or any subcommittee thereof, may sit this afternoon while the House is in session during general debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMMODITY CREDIT CORPORATION

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 1831) to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods converted by warehousemen from claims of the Commodity Credit Corporation, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 9, after "warehouseman", insert "or other dealer."

Page 1, line 9, strike out "also" and insert "regularly engaged."

Page 2, line 4, strike out "warehouseman" and insert "seller."

Page 2, line 7, strike out "warehouseman's" and insert "seller's."

Page 2, line 8, after "goods.", insert "To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief."

Amend the title so as to read: "An act to amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods from claims of the Commodity Credit Corporation."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HOPE. Reserving the right to object, Mr. Speaker, will the gentleman from Texas explain the amendments? I know they are not out of harmony with the original purpose of the bill, but I think we should have a brief explanation.

Mr. POAGE. The first amendment simply adds the words "or other dealer." The bill originally related to warehousemen who are engaged in the business of buying and selling. The Senate added "or other dealer." I cannot see that there is any objection to that.

The last amendment provides simply that there shall be added the words "to be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief."

It has been the position of the House committee that that was already in the bill, and that is substantiated by the opinion of the Department of Agriculture on the Senate amendments, in which the Solicitor says:

The last sentence is included because a question was raised during the debate. We believe, however, that this adds nothing new to the bill but would simply reaffirm what the bill already requires.

So as I see it, we have merely spelled it out in a little more detail.

Mr. HOPE. The amendments are merely clarifying?

Mr. POAGE. Merely clarifying; yes.

Mr. HOPE. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendments were concurred in; and a motion to reconsider was laid on the table.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1956

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 241 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That during the consideration of the bill (H. R. 6042) making appropriations for the Department of Defense for the fiscal year ending June 30, 1956, and for other purposes, all points of order against the bill are hereby waived.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN], and now yield myself as much time as I may require.

Mr. Speaker, I rise to urge the adoption of House Resolution 241 which will make in order the consideration of the bill (H. R. 6042) making appropriations for the Department of Defense for the fiscal year ending June 30, 1956, and for other purposes. One of the basic principles of parliamentary procedure is that general legislation should not be written in an appropriation bill.

House Resolution 241 would grant a rule, waiving points of order against the bill.

Mr. Speaker, as the report on this bill indicates the Committee on Appropriations made a very thorough study of the military budget which was submitted to Congress by the President on January 17. Hearings were conducted for about 3 months by the 15-man Department of Defense Subcommittee and 4 weeks of hearings were held by the entire subcommittee on the overall requirements of the Department of Defense. During these hearings the Secretary of Defense, members of the Joint Chiefs of Staff, the Secretaries of the Army, Navy, and Air Force, as well as the Commandant of the Marines were heard on this subject.

The Appropriations Committee in H. R. 6042 recommends that \$31,488,206,000 be appropriated by the Congress for the expenditures of the Department of Defense for fiscal year 1956. This amount is \$744,609,000 less than was asked for in the budget estimates for 1956. However, it is \$2,688,135,514 more than was appropriated in 1955. Evidence shows that the Joint Chiefs of Staff concur with reluctance.

The Committee on Rules waived points of order against the bill to take care of the situation such as arises on page 4 of the bill in the section which is entitled "Reserve Tools and Facilities." This section would permit the purchase of specialized long-lead-time tools for mobilization reserve purposes. Certain language in the appropriation paragraph dealing with transfers between appropriations and clearing such transfers

with the Bureau of the Budget would technically be subject to points of order. However, this is a very necessary item in the bill and the provision should not be jeopardized.

Also, it is understood that the amounts in the bill for reserve construction will sometime during fiscal year 1956 exceed monetary authorizations. A bill authorizing additional construction passed the House on April 27, and is now pending in the Senate. Under the rules, any amount in the bill in excess of the remaining available authority would be subject to a point of order. However, it is my understanding that there is no controversy on this matter.

The principal reason for the rule, however, is that there are rescissions in the bill totaling \$1,649,000,000 which under the Rules of the House are subject to points of order.

On page 12 of the bill, line 3 reads "the amount available in the Army stock fund is hereby reduced by \$700 million, such sum to be covered into the Treasury immediately upon approval of this act." This represents a rescission in the amount that had been previously made available to the Department.

On page 23, line 2 of the bill, another rescission is made whereby the Navy stock fund is reduced \$429 million; the Marine Corps stock fund is reduced \$25 million, and the Navy industrial fund is reduced \$40 million.

On page 29, line 23 of the bill another rescission is made whereby the amount available in the Air Force stock fund is reduced by \$300 million, and on page 30, line 2, the amount available in the Air Force industrial fund is reduced by \$155 million.

Mr. Speaker, there are several other sections in this bill which made this waiver of points of order desirable. Most of these sections are administrative in nature and in the interest of greater economy and efficiency. I hope that the House membership will adopt the rule and that the bill itself will receive the serious and careful consideration of this body. We all know that the defense budget is vitally important in safeguarding the United States against all enemies. It is a fact that the great Committee on Appropriations has attempted to give us the program that the country needs. There are undoubtedly differences of opinion as to just what percentages of the total expenditures should be spent on specific items, but despite this understandable situation we all agree on the fundamental principle that the defenses of our country must be maintained at the highest possible level. I hope that the rule will pass and that the debate will then commence on this all-important bill.

Mr. ALLEN of Illinois. Mr. Speaker, as always, the able gentleman from Massachusetts [Mr. O'NEILL] has explained the rule and the provisions of the bill itself. As the gentleman mentioned, we have waived points of order on this bill. The Members, by referring to the report, pages 54 and 55, can see the reason why we have waived points of order. There is considerable legislation on this appropriation bill. The

amount of this bill is \$31,400,000,000, and we of the Committee on Rules, while we gave an open rule, did not determine the time of debate. That is left to the Committee on Appropriations.

It is my hope that the Committee on Appropriations will agree on at least 4 hours, because so much money is involved.

Mr. Speaker, I reserve the remainder of my time.

Mr. O'NEILL. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. WILLIAMS].

CORRECTION OF ROLL CALL

Mr. WILLIAMS of Mississippi. Mr. Speaker, on yesterday, on roll call No. 55, I am listed as absent, when in truth and in fact I was present and answered to my name when called. I ask unanimous consent, Mr. Speaker, that the permanent RECORD be corrected accordingly.

The SPEAKER pro tempore. Is there objection?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1956

Mr. O'NEILL. Mr. Speaker, I have no further requests for time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

STRENGTHENING OF THE RESERVE FORCES

Mr. SMITH of Virginia. Mr. Speaker, I call up the resolution (H. Res. 227) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 5297) to provide for the strengthening of the Reserve Forces, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed 4 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN].

I now yield myself such time as I may consume.

Mr. Speaker, this rule makes in order the so-called Reserve manpower bill. The rule provides for 4 hours of general debate. It is an open rule with full opportunity for amendments.

With reference to the bill itself, I think there has been a very widespread misapprehension as to what this bill actual-

ly is or what it does. It has been confused with the discussions we have had here over the years in regard to universal military training. It is regarded in many quarters as a UMT bill, which it is not at all. I hope when we go into the consideration of this bill the House will understand that, because I know all of you, like myself, have received a great deal of correspondence in opposition to the bill from people who apparently were not advised or who were ill-advised and did not know what the bill contained.

I just wanted to take this opportunity to state to you what the bill does and what it contains. We heard it very fully up in the Rules Committee because of the widespread opposition that many of us had received on the ground that it was a UMT bill.

Here is what this bill does, it provides for a reserve force; it provides for 6 months' training. I think it should be understood from the beginning that there is not one iota of compulsion in this bill on any person who is subject to the draft. Let us understand that clearly.

Here is what it does: A boy who is subject to the draft between the ages of 17 and 19 if he elects, and only if he so elects, may volunteer for the Reserves. If he volunteers he is then obligated to a 6 months' training period. When he completes his 6 months' training period he can go on back to school, he can complete his education, he is relieved from further training except of course in the event of a national emergency, in which case all Reserves would be called. He is relieved from any further training and his only obligation then is to attend certain drills. He can either attend drills in the place that is most convenient for him or he can go to camp for 2 weeks in each year and remain in the Reserves for the remaining 7½ years. He would have been in the Reserves for 6 years if he had taken 2 years' training under the draft law.

It does not change the law as to the length of time the man remains in the Reserves. The only change is that he is given this opportunity to volunteer and take 6 months of training instead of being drafted for 2 years' service.

The advantage of it to the individual is that by taking this voluntary 6 months' training and going into the Reserves he could go into training at the beginning of his vacation, which would be 3 months, and it would mean that he would only lose 3 months out of his college training.

But he does not have to do any of it. Just let it be clearly understood. Instead he would be subject to the draft and subject to service. He does not have to do anything; he does not have to go into the program at all if he does not want to. The only obligation upon him is that if he voluntarily accepts the program then he has to comply with its requirements.

Mr. WILLIAMS of Mississippi. Mr. Speaker, will the gentleman yield for a question?

Mr. SMITH of Virginia. I yield.

Mr. WILLIAMS of Mississippi. Am I to understand that this bill provides for

Public Law 43 - 84th Congress
Chapter 46 - 1st Session
H. R. 1831

AN ACT

All 69 Stat. 65.

To amend the Commodity Credit Corporation Charter Act in order to protect innocent purchasers of fungible goods from claims of the Commodity Credit Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070), is hereby amended by adding at the end thereof the following new section:

Commodity
Credit Corp.
Charter Act,
amendment.
15 USC 714 note.

"SEC. 19. RELEASE OF INNOCENT PURCHASERS OF CONVERTED GOODS.—
A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman or other dealer who was regularly engaged in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the seller to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the seller's authority to sell such goods." To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief.

Approved May 23, 1955.

